

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

Mi Familia Vota, et al.,)	
)	
Plaintiffs,)	No. 2:22-cv-00509-SRB
v.)	
)	Phoenix, Arizona
Adrian Fontes, et al.,)	November 16, 2023
)	1:01 p.m.
Defendants.)	
)	

BEFORE: THE HONORABLE SUSAN R. BOLTON, JUDGE

REPORTER'S TRANSCRIPT OF PROCEEDINGS

BENCH TRIAL DAY 8 - PM SESSION

(Page 1960-2097)

Official Court Reporter:

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I N D E X**PLAINTIFF WITNESS: DIRECT CROSS REDIRECT RECROSS**JESSE RICHMON, Ph.D.

By Mr. Freedman (Cont.)		1965		
By Mr. Dodge		1982		
By Mr. Langhofer			1989	

HAILEY HISER

By Mr. Whitaker	1994		2059	
By Mr. Langhofer	2008		2059	
By Mr. Sherman		2009		
By Ms. Lang		2039		
By Ms. Brailey		2053		

ANALEE SHREEVE

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P R O C E E D I N G S

(Proceedings begin at 1:01 p.m.)

COURTROOM DEPUTY: All rise, court is now in session.

THE COURT: Good afternoon. Mr. Freedman, you may continue with your cross-examination of Dr. Richman.

MR. FREEDMAN: Thank you, Your Honor.

CONTINUED CROSS-EXAMINATION

BY MR. FREEDMAN:

Q. Good afternoon, Dr. Richman.

A. Good afternoon.

Q. I want to start on the analysis of the 6,084 full-ballot voters in AVID that you were talking about with Mr. Langhofer about two hours ago, at just about 11:00. I'd just like to put this in context. I want to just, like, level set on something.

So, one, I want to make sure you're aware that since 2004 a registrant in Arizona is required to provide documentary proof of citizenship?

A. Yes.

Q. Okay. And individuals who provide documentary proof of citizenship are called or referred to as full-ballot voters, meaning that they can vote in all federal, state, and local elections, right?

A. Yes.

1 Q. So just a couple of basic points. When Mr. -- when
2 Professor McDonald compared the full-ballot voters to the MVD
3 databases, he found that there were 6,084 full-ballot voters
4 who the ADOT credential database indicates are non-citizens,
5 right?

6 A. Yes.

7 Q. And you confirmed in your direct testimony that you were
8 able to replicate that number?

9 A. I was.

10 Q. Okay. So why don't -- I want to spend a little time just
11 walking through the iterations of your analysis at this point,
12 starting with your original report and then -- and then we'll
13 get to the supplemental.

14 MR. FREEDMAN: Stephen, can you pull up Defense
15 Exhibit 912, which is --

16 BY MR. FREEDMAN:

17 Q. Professor Richman, this is going to be your Table 2 from
18 your original -- your October 13th report.

19 A. Yes.

20 Q. Okay. And we see at the bottom you've got the 6,084
21 numbers under "Frequency." Do you see that?

22 A. Yes.

23 Q. Okay. And looking at the first substantive line, the
24 licenses established or renewed after voter registration, you
25 concluded in our October 13th report that 2,331 of the 6,084

1 had a license established or renewed after voter registration,
2 right?

3 A. Well, with the caveat that in the text I discuss as well
4 the issue of duplicate credentials.

5 Q. Okay. I'm just trying to level set and kind of make
6 clear. Your October 13th report you reported 2,331 instances
7 where the timing of voter registration versus the ADOT license
8 date was that the license was established or renewed after
9 voter registration, right?

10 A. Well, established, renewed or duplicate or replacement as
11 it became clear once I got additional data.

12 Q. Okay. But when you filed this report on October 13th,
13 you didn't include the words "duplicate" or "replacement."
14 You just said license established or renewed, right?

15 A. And in the text of the report I also discussed the issue
16 of duplicates.

17 Q. Okay. So on the day before you signed this October 13th
18 report with this analysis, you requested -- you put in a
19 request through counsel to ADOT to provide additional data
20 because you were not certain of your position, right?

21 A. That's correct.

22 Q. Okay.

23 MR. FREEDMAN: Why don't we pull up what's been
24 marked for identification Impeachment Exhibit 5. And why
25 don't we just blow up the bottom e-mail, if we could, Stephen.

1 Just magnify it.

2 BY MR. FREEDMAN:

3 Q. And, Professor Richman, have you seen this before?

4 A. Let me -- let me just review it briefly. Yes, I believe
5 I have.

6 Q. Okay. What is this?

7 A. This is a message from Kory Langhofer to Joshua Whitaker.

8 Q. And you see it's sent October 12th, 2023, the day before
9 you submitted your report, right?

10 A. Yes, I see that.

11 Q. And you see Mr. Langhofer's writing and he says -- well,
12 we can read it ourselves. The point I want to focus on is in
13 the -- in the second paragraph. He writes, "If so, our large
14 data set matching expert will need some additional data in
15 order to be certain of his position," right?

16 That's what he says?

17 THE COURT: Okay --

18 MR. FREEDMAN: I'm sorry.

19 THE COURT: Just ask your question as opposed to ask
20 if you've read it correctly.

21 MR. FREEDMAN: Okay. Thank you, ma'am.

22 BY MR. FREEDMAN:

23 Q. Just tell us, what position were you not certain of when
24 this was sent?

25 A. As I said in the report, it involved the question of

1 duplicate licenses for non-Real ID issuance.

2 Q. Okay. And so we understand your analysis --

3 MR. FREEDMAN: Stephen, can you put 912 back up.

4 BY MR. FREEDMAN:

5 Q. Just to be clear, one of the positions that you could not
6 be certain about when you submitted your October 13th report
7 was that the 2,331 number identified in Table 2 were
8 individuals who may have registered to vote -- you cannot be
9 sure that those were all instances where licenses were
10 established or renewed after voter registration, right?

11 A. Exactly.

12 Q. Okay. Now, you went ahead and submitted your report on
13 October 13th?

14 A. That's when it was due.

15 Q. Okay. I want to talk about some of the other limitations
16 in the ADOT data, the MVD data that we talked about earlier,
17 and just understand how they -- how they factor into this
18 analysis.

19 A. Okay.

20 Q. So one of the limitations we discussed this morning was
21 that the ADOT MAX, M-A-X, legal presence information is not
22 always up to date, right?

23 A. That's correct.

24 Q. And --

25 MR. FREEDMAN: If we can keep 910 on.

1 BY MR. FREEDMAN:

2 Q. And that limitation is also reflected in your 2,003 --
3 2,331 number, right?

4 A. So that's the crucial distinction between the first and
5 second rows here, in part. So it's because of the uncertainty
6 around duplicates, it's reflected in both, but it's especially
7 reflected for the second row where the license was established
8 or renewed prior to voter registration.

9 Q. Okay. Just so we're clear and so we understand, your
10 2,331 number only includes people who ADOT said that they were
11 non-citizens after they had registered to vote, right?

12 A. So what this number includes are people who ADOT says in
13 its file are non-citizens and who had a credential issuance
14 date after their date of registration.

15 Q. So the question Judge Bolton asked earlier about the
16 treatment of people who registered to vote on the same day as
17 ADOT said they were non-citizen, those individuals are not in
18 your 2,331 number, right?

19 A. That's correct.

20 Q. Okay. But the 2,331 number includes people who's voter
21 registration was a couple weeks before the ADOT event date
22 where ADOT says they were non-citizen, right?

23 A. It would include people -- it includes all issue dates
24 after the voter registration date. So it could be two weeks.
25 It could be longer.

1 Q. Okay.

2 A. It could be one day.

3 Q. Okay. Now, another limitation of the ADOT data we
4 discussed earlier is that there's some probability of data
5 entry errors that could lead to matching failures, right?

6 A. Yes.

7 Q. And the 2,331 number could reflect some data entry or
8 matching errors, right?

9 A. That's a possibility, as we've already discussed, yes.

10 Q. Okay. And another limitation, which I think gets to your
11 information request, the October 12th request, is that not
12 every interaction with ADOT requires somebody to provide
13 proof of citizenship or authorized presence, right?

14 A. Right.

15 Q. And the 2,331 number could include people who are just
16 updating their name or address or requesting a replacement for
17 a lost or stolen license, never provided proof of authorized
18 presence to ADOT, right?

19 A. As we discussed, duplicative issuance for non-Real ID
20 would not necessarily require proof of authorized presence.

21 Q. And as we now know, based on the additional data you got,
22 the 2,331 number actually includes 961 individuals who are not
23 establishing or renewing a license, right?

24 A. I don't think that's quite correct. It's -- it's roughly
25 but the -- there -- also, there's that same-day issue. So

1 some of the duplicate issuances were same day.

2 Q. Okay. But it's about -- the order of magnitude I'm
3 talking about, it's about 900-some people?

4 A. Probably. I'd have to sort that out in terms of exactly
5 how many, but approximately.

6 Q. Sitting here today, you don't -- you don't know the --

7 A. I don't remember the exact number.

8 Q. Okay.

9 MR. FREEMAN: And this may be confusing for the
10 Court, so I just want to see if I've got this straight.

11 Stephen, can you pull up what we've marked as
12 Impeachment Exhibit 6.

13 BY MR. FREEDMAN:

14 Q. So I prepared something just to see if I've got this
15 right. So this is your calculation of your 2,331. And what I
16 think we've -- what I would like you to confirm is that this
17 excludes the people who registered the same day as the ADOT
18 credential was checked.

19 The people who -- the same-day people are not in your
20 2,331 number, right? That's the second line here.

21 A. That -- yes, that is -- the second row is excluded.

22 Q. And some of the other limitations we've talked about,
23 people who registered before 2000 -- registered to vote before
24 2005, data entry, mismatch errors, people who were not
25 establishing or renewing credentials, as opposed to a

1 duplicate, people who registered not the same day, but a
2 couple weeks, like within a month, before the ADOT credential
3 was checked, those are all included in your 2,331 number?

4 A. The term "credential checked" by which you -- you mean --
5 you mean the issuance date?

6 Q. When ADOT is saying that non-citizenship was -- proof of
7 non-citizenship was shown.

8 A. Yes, this looks consistent with my analysis.

9 Q. Okay. Now, I want to roll forward a little bit to your
10 revised analysis. This is the analysis in your supplemental
11 report that was served around midnight on October 22nd -- I'm
12 sorry, October 28th.

13 That's -- to put it in perspective for you, that's
14 about a day and a half before -- well, it's a day and a night
15 before we deposed you, right?

16 A. It's also the same day I got the data. So I turned it
17 around as fast as I could. I appreciate that the timing was
18 unfortunate.

19 Q. Right. I mean, you testified on direct you did it
20 immediately. I don't think there's any dispute you turned to
21 your analysis immediately, right?

22 A. Yep.

23 Q. So in that supplemental report you acknowledge that it's
24 clear that the issuance of a duplicate non-Real ID credential
25 does not require proof of legal presence provided that the

1 proof of authorized presence previously had not expired,
2 right?

3 A. For non-Real ID.

4 Q. Non-Real ID, okay.

5 MR. FREEDMAN: And, Stephen, can we pull up 929,
6 which is Professor Richman's supplemental -- Table 2.4 from
7 his supplemental report.

8 BY MR. FREEDMAN:

9 Q. And this is -- this is the -- this is the table you
10 discussed on -- this table has the 1,779 number that you
11 discussed on direct, right?

12 A. It does, yes.

13 Q. Okay. Just to help understand some of -- some of the
14 changes between this and the Table 2 that we looked at
15 before --

16 MR. FREEDMAN: Stephen, can you pull up what's been
17 marked for identification Impeachment Exhibit 6, No. 2.

18 BY MR. FREEDMAN:

19 Q. Okay. So what -- what this does is -- this is just
20 designed to show your row headers as if you compare your
21 original analysis October 13th against your revised analysis,
22 Table 2.4, October 28th. Do you see that?

23 A. Yes. If you'll give me just a moment to review it, I'd
24 appreciate it.

25 Q. Sure.

1 A. Okay.

2 Q. Okay. So if you look at the second row, in your original
3 table you were looking at license established or renewed
4 after voter registration, and in your revised analysis you're
5 looking at evidence of non-citizenship provided to ADOT on day
6 of or after voter registration. Do you see that?

7 A. Yes, I do.

8 Q. Okay. And is it fair to say -- and I think you testified
9 to this on direct, but I just want to make sure we're clear.

10 This reflects that you had the people who went to
11 ADOT and showed their proof of non-citizenship and registered
12 on the same day were excluded from your original analysis, but
13 are in your revised analysis, right?

14 A. That's right. I identified that that was a error or
15 limitation in my previous analysis and I corrected it.

16 Q. Okay. Just to help the Court understand --

17 MR. FREEDMAN: Stephen, can we look at the third in
18 this series, Impeachment 6.

19 BY MR. FREEDMAN:

20 Q. This is just a comparison of your two analyses, what's
21 in, what's out, and proximate magnitude.

22 I just want to take this line by line. The pre-2005
23 registrations were included both in your original calculation
24 of 2,331, but excluded -- but also included in your -- in your
25 calculation of the 1,779, right?

1 A. That's correct.

2 Q. And on direct, at about -- about 11:14 this morning, you
3 said that you thought that was about a hundred, right?

4 A. Yes.

5 Q. Okay. And then the second line, which we've talked about
6 a little bit is the same-day issue. It was excluded from your
7 original analysis, but it's included in your revised analysis,
8 correct?

9 A. That's correct.

10 Q. And you had -- you didn't agree with my number earlier of
11 409, but that's about the right order of magnitude, right?

12 A. I -- I said before I wasn't sure of the exact number.
13 I'm still not, but that looks like the right order of
14 magnitude to me.

15 Q. Okay. And then if we look at the people looking at, you
16 know, potential time lag issues, delay issues on -- on ADOT
17 processing, looking at people who within a month their
18 credentials checked, they registered to vote within a month
19 before ADOT checked their credential, that's in both your
20 first and your second calculation, right?

21 A. I'm a little confused about your discussion of time lag.
22 Maybe we can go into that further, but that seems about right.

23 Q. Okay. Had you attempted to quantify this?

24 A. I had looked principally actually in the other direction,
25 so people who -- it was quite proximate the other way you had

1 a -- but, you know, you had -- they registered to vote only
2 shortly before a credential is issued, because you could get a
3 time lag that way as well, but I didn't include that in my
4 analysis. I did look at it.

5 Q. But it's not -- it's not in your analysis?

6 A. No, I decided to be conservative about the numbers in
7 terms of not -- trying to argue that someone who registered to
8 vote the day before their -- their credential issued is --
9 arguably, they're less likely to have a stale record at that
10 point, but I left those in that category of potentially stale.

11 Q. Okay. And then the next line, the
12 "non-establishment/renewal credentials," this is the principal
13 change that you made, the one that you -- going from licenses
14 renewed and issued to a truer definition of licenses renewed
15 and issued, right?

16 A. This is the ability to identify who the duplicate
17 non-Real ID license holders are.

18 Q. And those were in your first calculation, but excluded
19 from your second calculation, right?

20 A. Most of them. As I discussed previously, there is the
21 duplicate issue.

22 Q. And then the final -- final limitation we talked about
23 earlier, the ADOT data entry and mismatches, those are going
24 to be reflected in both numbers, right?

25 A. Yes, potentially in both numbers.

1 Q. And can you quantify that?

2 A. Well, so in terms of data entry on the ADOT side, as I
3 discussed this morning, I was able to identify 22 cases in
4 which someone was at one point identified in the ADOT database
5 as being a non-citizen, and then -- I'm sorry, a citizen, and
6 then later updated to be identified as a non-citizen.

7 So that's one data point in terms of quantifying the
8 degree of error in that database.

9 Q. And did you look at errors going the other way, people
10 who were classified as non-citizens in the ADOT database who
11 were actually citizens?

12 A. So to identify those errors would be -- would be
13 difficult in -- there wasn't data available to do that,
14 because most of the time when someone is a non-citizen and
15 becomes classified as a citizen, it's because they
16 naturalized.

17 Q. Okay. I want to take a look at your Table 2.5. I
18 believe this is the one that was moved -- well, I want to do
19 another comparison to what your original report and your
20 revised report.

21 MR. FREEDMAN: Stephen, can you pull up Defense
22 Exhibit 921.

23 BY MR. FREEDMAN:

24 Q. This is Table 12 from your original report. And then I
25 want to --

1 MR. FREEDMAN: Stephen, can you do a side by side
2 with Defense Exhibit 930, what was pre-marked -- this was the
3 exhibit that was actually moved into evidence as Defense
4 Exhibit 974. This was my unintelligible objection earlier to
5 the -- to the exhibit numbering. But this is -- Table 2.5 is
6 in evidence as Exhibit 974, so I just want the record to be
7 clear on that.

8 MR. LANGHOFER: Your Honor, we agree with that.
9 What we previously described as Exhibit 274 is actually marked
10 as 930. The error was mine.

11 THE COURT: Thank you.

12 MR. FREEDMAN: And I apologize, it was completely
13 unintelligible when I was trying to explain this earlier.

14 BY MR. FREEDMAN:

15 Q. Professor Richman, I just want to walk through this --
16 these charts and just understand sort of the relationship
17 between them.

18 So the top line, the active voter file in --

19 MR. FREEDMAN: The line above, Stephen, sorry.
20 What's 335? So I want to see -- Stephen, if you could pull up
21 921 and 930 side by side.

22 BY MR. FREEDMAN:

23 Q. And we see that in the active voter file, the top line,
24 we see the 2,331 number we've been talking about. And then
25 the -- in the top line of Table 2.5 we see the 1,779 number

1 we've been talking about.

2 Now, the next three lines you're cancelled, you're
3 suspended, you're federal-only registered voters. All those
4 numbers dropped between your original analysis and your
5 revised analysis, right?

6 A. Yes, that's right. Well, except for the cancelled jury
7 stated one.

8 Q. Okay. Just so we're clear, so the -- the initial -- your
9 cancelled lack of DPOC dropped from 56 to 51, right?

10 A. That's correct.

11 Q. And your suspended invalid citizen proof dropped from 97
12 to 72, right?

13 A. Yes.

14 Q. And your federal-only registered voters dropped from 41
15 to 31, right?

16 A. Correct.

17 Q. Now, on the last line, I just want to be clear what
18 the Cancelled - Juror Survey Non-Citizen means. In your
19 original report you identified one individual who was
20 cancelled because their juror survey indicated they were
21 non-citizen whose ADOT record -- ADOT records indicated
22 non-citizenship as well?

23 A. That's correct.

24 Q. And they -- and that individual also had a ADOT document
25 issued date, meaning their credential was checked after they

1 registered to vote, right?

2 A. I believe so.

3 Q. And October 28th, your revised analysis, that number
4 remained the same. It was still one --

5 A. There was still the one.

6 Q. Still one juror non-citizen, right?

7 A. There was still that one individual who -- yeah, so
8 that -- that number didn't change for that one, yeah.

9 Q. So, to be clear, you've identified one non-citizen from
10 the Jury Surveys whose ADOT record reflects they were
11 non-citizen after they registered to vote?

12 A. This is from -- this isn't from the Jury Surveys. This
13 is from the -- the cancelled voter file. This is a code in
14 the file.

15 Q. I see. So it's a different -- it's within the cancelled
16 file. It's not from the jury -- it says Jury Survey, but it's
17 not --

18 A. It's based on the Jury Survey. This is the -- I
19 replicated the name of the code. So this is Cancelled - Jury
20 Survey Non-Citizen is the code in the voter file.

21 Q. Thank you.

22 MR. FREEDMAN: Let me confer with my colleagues, but
23 I may be able to pass this to Mr. Dodge, with the Court's
24 indulgence.

25 Thank you, Professor Richman. I will turn it over

1 to Mr. Dodge.

2 CROSS-EXAMINATION

3 BY MR. DODGE:

4 Q. Christopher D. Dodge on behalf of the Mi Familia Vota
5 plaintiffs.

6 Good afternoon, Dr. Richman.

7 A. Good afternoon.

8 Q. I spent last night putting together a very lengthy
9 outline to go over with you, and I'm very pleased to say I
10 think I only need a few pages of it. So I'll keep this very
11 brief.

12 I'd like to first go over a little about your prior
13 work as an expert and then talk about the voter confidence
14 issue you spoke about with Mr. Langhofer.

15 A. Okay.

16 Q. You've served as an expert witness in a total of four
17 cases, including this one, correct?

18 A. That's correct.

19 Q. One of them was a case called *Lee vs. Virginia State*
20 *Board of Elections* where you were retained as an expert and
21 deposed; is that right?

22 A. That's correct.

23 Q. But you didn't ultimately testify at trial in that case,
24 correct?

25 A. Correct.

1 Q. There was another case, *Priorities USA vs. Missouri*,
2 where you were also deposed, but then, again, not called to
3 testify at trial; is that correct?

4 A. That's correct.

5 Q. There was a third case, which has been mentioned already,
6 *Fish v. Kobach*. You remember that case?

7 A. Yes.

8 Q. You did testify there?

9 A. Yes.

10 Q. And with the exception of today, that's the only case in
11 which you were retained as an expert witness in which you
12 testified live, correct?

13 A. That's correct.

14 Q. The *Fish v. Kobach* decision also concerned a challenge to
15 a law involving documentary proof of citizenship?

16 A. Yes.

17 Q. The Court in that case did not ultimately credit your
18 testimony with respect to the prevalence of non-citizens
19 registered within Kansas; fair to say?

20 A. The Court said it was confused.

21 Q. And it ultimately did not rely on your testimony?

22 A. As far as I know.

23 Q. The Court also expressed generally some concerns with
24 your candor with respect to the reasons why you supplemented
25 some of your testimony; is that fair to say?

1 A. I don't recall that.

2 Q. You're aware there's a federal published court decision
3 addressing this issue, correct?

4 A. Yes.

5 Q. All right. I'll turn to the better confidence issue.
6 You acknowledge in your report that insufficient research
7 has been done at this stage to investigate the relationship
8 between voter confidence and election legislation; is that
9 fair to say?

10 A. Yes, that's fair to say. I'd be happy to explain more if
11 you'd like.

12 Q. It's also the case that you haven't published any
13 peer-reviewed work on the topic of voter confidence?

14 Is that fair to say?

15 A. On the whole, yes.

16 Q. And based generally on your experience as an academic,
17 you're not familiar with any peer-reviewed literature
18 concluding that enacting a documentary proof of citizenship
19 law improves public confidence in elections.

20 Also fair to say?

21 A. I am not familiar with any literature specifically on
22 that topic. I'd be happy to discuss related literatures,
23 though.

24 Q. You haven't published any work on public awareness of
25 voter ID or proof of citizenship laws; is that also the case?

1 A. Yes.

2 Q. And you haven't done any research in this case into
3 public awareness within the State of Arizona of HB2492 or
4 HB2243?

5 A. If you can give me half a second, I just -- my previous
6 answer, I need to correct that slightly. Is that okay?

7 THE COURT: Yes, go ahead.

8 THE WITNESS: Okay. So I did publish a paper on
9 identification requirements for college students in college
10 towns a number of years ago, and that did address some of
11 these issues.

12 Thank you. If you could restate your subsequent
13 question. I'm so sorry.

14 BY MR. DODGE:

15 Q. The work you just mentioned, that concerned specifically
16 public awareness of voter ID or documentary proof of
17 citizenship issues?

18 A. Requirements for identification of college students in
19 college towns.

20 Q. You haven't done any research in this case into public
21 awareness within Arizona of HB2492 or HB2243, correct?

22 A. Correct.

23 Q. And you would agree with me that a voter needs to be
24 aware of the law for that law to contribute to their
25 confidence or lack of confidence in the electoral system,

1 right?

2 A. Yes. Well, let me -- let me correct. I would say that
3 that is one way that it could have an effect, but there are
4 other ways. I'd be happy to explain.

5 Q. I'm not sure I follow your answer. That what could have
6 an effect?

7 A. So you said awareness is -- of the law is a prerequisite
8 for an effect on voter confidence. I believe that was your
9 question. Am I -- am I right about that?

10 Q. Let me -- let me step back a little bit.

11 A. Sorry about that.

12 Q. Can a person's perception of something be impacted by
13 something they have no knowledge of?

14 A. Yes.

15 Q. Could you say how?

16 A. So, for example, as we discussed earlier, one of the
17 effects on voter confidence in Arizona, based on some of the
18 rhetoric that has happened, is the number of people on the
19 federal-only list. And so one might not be aware of how this
20 law is reducing the number on the federal-only list, but the
21 reduction that would likely happen through bringing in
22 additional databases, especially by the records, to identify
23 that a lot of -- that perhaps many of those people are
24 citizens would thereby reduce the ability to make that claim
25 even if people are not aware of how that reduction happened.

1 Q. Let me -- let me restate my original question a little
2 differently, then. A member of the public would have to be
3 aware of the effects of a law, then, for it to impact their
4 confidence or lack of confidence in the electoral system,
5 fair?

6 A. That -- that's another way that they could -- it could
7 have an effect.

8 Q. But if a person was oblivious to the law or the effects
9 of the law, it would presumably not impact their views of the
10 electoral system, as a matter of common sense, fair?

11 A. That seems -- that seems sensible.

12 Q. You discussed what you refer to as "the big lie" with
13 Mr. Langhofer a little bit. Could you just tell us what you
14 consider that to be?

15 A. So this is it a term that's been used in a variety of
16 papers. I was just reading a paper published in a political
17 science journal the other day analyzing voter confidence and
18 the effects of the rhetoric of the Trump campaign and some of
19 Trump's surrogates and they used that term.

20 So it's a term that's used to refer sometimes to
21 these seemingly baseless claims of giant voter fraud that were
22 made by Trump and some of his allies.

23 Q. And those baseless claims of giant voter fraud were very
24 widely propagated around the time of recent presidential
25 elections; fair to say?

1 A. I would agree.

2 Q. And a lot of people in the country, and in Arizona,
3 believed those baseless lies because they were widely
4 propagated by an authority figure, fair?

5 A. That certainly seems like a plausible explanation.

6 Q. And you mentioned that the lies were --

7 A. But I would add that there -- there were other factors as
8 well.

9 Q. You mentioned that the lies were baseless, right?

10 A. None of -- as far as I know, the Trump team never
11 prevailed in court, for example, in their claims.

12 Q. The fact of their baselessness was also widely propagated
13 to the public, right?

14 A. It certainly would seem that way.

15 Q. In fact, you, yourself, undertook your own efforts to
16 explain why these lies were not rooted in fact, right?

17 A. Yes, I did.

18 Q. And so it's fair to say that it was also widely
19 disseminated amongst the public that these claims were wrong
20 and why they were wrong, right?

21 A. I would hope so.

22 Q. But you would agree with me that there's still a lot of
23 people who believe them, despite the fact that that knowledge
24 has been disseminated, right?

25 A. Yes, I would.

1 Q. And so those people continue to believe in an irrational,
2 baseless claim about our electoral system, correct?

3 A. They continue to -- they continue to believe the claim,
4 it certainly would appear, at least a significant number of
5 them do, and you can look at what's happened in some
6 subsequent elections to Republicans who objected to Trump's
7 claims and so forth.

8 MR. DODGE: I have nothing further.

9 THE COURT: Any other cross-examination of this
10 witness?

11 Mr. Langhofer, redirect?

12 MR. LANGHOFER: Yes, Your Honor, briefly, please.

13 All right. Elaine, could we have the Elmo again.
14 We're going to do that -- the fixed methods here.

15 REDIRECT EXAMINATION

16 BY MR. LANGHOFER:

17 Q. All right. Professor Richman, I'd like to do some math
18 with you, some second-grade math, lawyer level math, in a
19 moment. But I want to talk about the, you know, discrepancies
20 or mismatched numbers in a minute and try to make sense of it.

21 So in the far right-hand column of Exhibit 930,
22 which I previously described as 974 improvidently, what is
23 included in that column?

24 A. These -- what's included in this column are a variety of
25 different kinds of instances in which the ADOT data does not

1 provide evidence of citizenship or non-citizenship. So it
2 includes several different categories of those.

3 Q. So if someone has an F-type license, would they be
4 included in the right column of Exhibit 930?

5 A. They would not if we have a match on the ADOT number.

6 Q. Okay. Would they instead be in the middle or left-hand
7 columns?

8 A. Yes.

9 Q. Okay. So let's do my, you know, lawyer level math. I'm
10 going to try to write this out. You've got 1,972 -- excuse
11 me, 19,262 is the number there in the right-hand column. In
12 the middle column, you've got 65. What does that number
13 represent?

14 A. That represents the set of records who are federal-only
15 registered voters for whom the ADOT file match indicates that
16 they're not a citizen.

17 Q. Okay. And you previously have testified to the number of
18 federal-only voters that at this point ADOT indicates are
19 citizens, and if I recall correctly, your testimony was 112,
20 right?

21 A. There are 112. I think that's a -- that's a subset of
22 the total number, though. That's -- wait. No. Yes, that's
23 the total. Yeah.

24 Q. Okay.

25 A. I'm pretty sure.

1 Q. So I'm just going to do this math by hand. I apologize
2 for my handwriting, which is my worst grade in second grade,
3 Ms. Fuggit, and why don't you check this as being our, you
4 know, resident math expert for the moment.

5 Did I do those numbers correctly?

6 A. Looks like you did it correctly to me.

7 Q. Okay. So those sum up to 19,439?

8 A. Yes.

9 Q. I want to look now at Exhibit 332, which is Professor
10 McDonald's report, and we're going to look at Page 63 there,
11 which you were asked about on cross-examination.

12 This is Professor McDonald's calculation of all the
13 federal-only voters -- federal-only voters in the state.
14 What's the number that he has there?

15 A. 19,439.

16 Q. It's the same number?

17 A. It is.

18 Q. Okay. So this -- the fact that the right column of your
19 exhibit excludes F-type licenses that match to a voter and
20 voters that match to some who's provided DPOC to ADOT, does
21 that explain this sort of mathematical discrepancies that you
22 were questioned about before?

23 A. Absolutely.

24 Q. But I'm not trying to be -- I actually have a little bit
25 of difficulty hearing what was your answer?

1 A. My answer is "yes."

2 Q. Thank you.

3 On the juror survey issue where you identified only one
4 voter who was cancelled for that, are you aware of any
5 testimony from the County Recorders that when they invalidate
6 a voter registration for jury questionnaire reasons how they
7 code that?

8 A. I can't recall at the moment.

9 Q. Okay. Well, then we will not pursue that one.

10 Her Honor had some questions for you earlier about how
11 some of the supplementation of the new law would require new
12 MOUs with, for example, USCIS or the federal records
13 administrators.

14 For the 112 apparent citizens who are currently
15 registered as federal only, is it your understanding -- do you
16 have an understanding of whether there would have to be a new
17 MOU negotiated between ADOT and the Secretary of State to
18 update their records?

19 A. I'm not certain, as I said before, of the details of the
20 MOU. However, that seems likely to me that if they're not
21 currently allowed to do it, then they would need a new MOU in
22 order to be able to -- to accomplish that goal.

23 MR. LANGHOFER: Thank you, Your Honor.

24 No more questions on redirect.

25 THE COURT: May this witness be excused?

1 MR. LANGHOFER: Yes.

2 THE COURT: Any objection?

3 MR. DODGE: No objection.

4 THE COURT: Dr. Richman, thank you very much. You
5 may step down and you are excused as a witness.

6 And defendants may call their next witness.

7 MR. WHITAKER: Thank you, Your Honor. Josh Whitaker
8 for the State and Attorney General.

9 The defense calls Hilary Hiser by Zoom.

10 COURTROOM DEPUTY: Mr. Whitaker, I see a Laura Bauer
11 in there. What was the name?

12 MR. WHITAKER: That may be her.

13 COURTROOM DEPUTY: It was Hilary Hiser, you said?

14 MR. WHITAKER: Yes.

15 COURTROOM DEPUTY: If it's her, I'll let her in, but
16 if you would ask her to change her name.

17 MR. WHITAKER: I believe the person there is Hilary
18 Hiser. Can I just tell her to -- ask her to change her user
19 name?

20 COURTROOM DEPUTY: Yes, but let me swear her in
21 first.

22 Ms. Hiser, can you please raise your right hand.

23 *(Witness is sworn.)*

24 COURTROOM DEPUTY: I didn't get that.

25 Okay, hold on a second.

1 Can you try saying something for me again?

2 Try it one more time.

3 THE WITNESS: Hello.

4 COURTROOM DEPUTY: Okay, that's perfect.

5 Let me swear you in one more time just so the record
6 is clear

7 (*Witness is sworn.*)

8 COURTROOM DEPUTY: Thank you.

9 DIRECT EXAMINATION

10 BY MR. WHITAKER:

11 Q. Good afternoon, Ms. Hiser.

12 A. Hello.

13 Q. I understand that until recently you worked for the Pima
14 County Recorder's office; is that right?

15 A. That is correct.

16 Q. Okay. When -- when did you begin working for the
17 Recorder's office?

18 A. I retired from the Pima County Recorder's Office in
19 September of 2001 (sic).

20 Q. And what was your most recent position in the office?

21 A. My most recent position at Pima County Recorder was the
22 Chief Deputy Recorder of Pima County.

23 Q. And how long did you hold that position?

24 A. I held that position for a year and couple of months.

25 Q. And what were you before then?

1 A. I was the Assistant Chief Deputy Recorder.

2 Q. Were you working for the Pima County Recorder's office at
3 the time of your deposition in this case?

4 A. I was.

5 Q. And do you remember roughly what day you left the office?

6 A. I left Pima County August -- I think it was the 18th.

7 Q. All right. In your experience at the office, were you
8 ever aware of the office receiving registration forms that
9 appeared to contain inaccurate information?

10 A. We did have some experiences with registration forms with
11 inaccurate information during the '22 cycle.

12 Q. Can you explain a little bit more about what that -- what
13 happened?

14 A. So during the '22 election cycle, during Congressional
15 elections and Presidential elections, various voters
16 registration groups will ramp up operations, and they will do
17 voter registration drives and they will turn in large
18 quantities of voter registration forms to County Recorders,
19 Pima County, Maricopa County. We get quite a lot of those
20 forms during the 2022 cycle.

21 We would be receiving sometimes hundreds of forms a
22 day from these groups and be processing through the voter
23 registration forms. And, for the most part, we would have
24 forms that were good, and we would update people's voter
25 registrations. And we'll have forms of -- for new voters and

1 we would put new voter registrations in the system, but then
2 there would be -- we would encounter forms where it would be
3 the same voter. So you'd have -- say, on Monday you'd get a
4 voter for -- for Joe Smith and we would get a registration
5 form for him and then, you know, on Wednesday, we'd get
6 another voter registration form for Joe Smith, but something
7 else -- something would be slightly different on the form.

8 So you'd get maybe a different -- it would be Joe
9 L. Smith or it would be Joe Smith with a slightly different
10 Social Security -- last four digits of a Social Security
11 number or would be a date off on the date of birth or a change
12 of party. It could be any number of things.

13 So we would encounter times where we would have
14 forms that would be on the face a valid registration form, but
15 as we continued to work through them, we would have questions
16 as to whether or not that was a valid registration form. So
17 we would put those off to the side in our troubles and -- and
18 kind of put them in a suspended status and then come back to
19 them and try to work through them.

20 Q. And did that sort of thing happen only in 2022?

21 A. Well, I was not with the Recorder's Office during the
22 2020 cycle, but from staff who were in that cycle they said
23 that they experienced some of the same issues.

24 During the '23 cycle, because it was not a Congressional
25 election, the voter registration -- the volume of voter

1 registration forms that we got during the '23 cycle were
2 significantly less because those were elections -- local
3 elections, cities, towns, county-only elections.

4 Q. And I realize I may have misheard your testimony at the
5 beginning. I thought you said you were there since 2001, but
6 did you say 2021?

7 A. 2021, yes.

8 Q. I see, okay. Can you think of any other examples of
9 questionable forms that the Recorder's office has received,
10 such as forms of people who -- forms for applicants who are no
11 longer alive?

12 A. During the '22 cycle we did have several voter
13 registration forms that staff processed that we had determined
14 that that voter had been deceased for quite some time. Their
15 voter registration -- so in Pima County, just as in Maricopa
16 County, we have our own voter registration database, and
17 within the voter registration database the voter registration
18 doesn't actually go away. It will be archived. So we always
19 have the ability to find a voter registration of a citizen.

20 So when we process voter registration forms and we input
21 them in, the old record may sometimes come up because that's
22 the way the system is designed. It's designed to look for
23 similar names and things like that.

24 So on several occasions we had some records that showed
25 deceased individuals and we would then have a voter

1 registration form that had just been turned in for an
2 individual who had passed away, like, two or three years ago.

3 Q. Were there specific -- well, let me ask a preliminary
4 question. Were questionable -- questionable forms, in your
5 experience, usually turned in by an individual purporting to
6 be the person on the form, or were questionable forms more
7 often turned in by a group, like a third-party group?

8 A. So in the instances that I just described, those were
9 instances of forms being turned in by voter registration
10 groups during that -- the congressional election year.

11 As I stated earlier, during a congressional election or a
12 presidential election year, voter registration groups do voter
13 registration drives and we get a lot of forms returned by
14 them. So -- that was the 2022 cycle, so it would have been
15 from those groups.

16 Q. You mentioned just now that the Pima County Recorder's
17 Office has a way to look at existing forms when new forms come
18 in to compare information. Did I get that right?

19 A. Correct.

20 Q. Okay. Can you talk a little bit about the process that
21 was used when it looked like a form comes in and it may -- it
22 may be at least a partial match with an existing form?

23 A. So the -- the basic process of registering someone to
24 vote, once the voter registration form comes into the office,
25 it is a two-step process. It is a first check, second check.

1 So staff will be assigned forms to input into the
2 system as a first check, and as they're putting information
3 into the system, the system is able to kind of populate as to
4 whether or not this person already exists.

5 So things like if you have a really common name, you
6 can start to put that in and you'll look for that common name
7 to see if this might be one of -- if this is an existing voter
8 registration record that just needs to be updated or if this
9 is a brand-new voter registration record that needs to be
10 input into the system.

11 The reason that you would do that is is that you
12 don't want to make an unnecessary -- unnecessary duplicate
13 into the system. When you do that, then you have two records
14 for the same person and then we would have to go back in and
15 we would have to merge the records.

16 So you look for -- you put the voter -- you look for
17 the voter, if they're still matched, then we're putting the
18 registration in as a brand-new registration. So they're going
19 in like never been there before.

20 And then there is a second check. So every
21 registration that goes into the system, a second staff member
22 will go in and check all of the information that was input
23 into the system, and that's a quality control feature to
24 ensure that we don't transpose any names or letters or
25 numbers, that the information on the form is accurately put

1 into the fields of the database.

2 And every voter registration form that comes in or
3 any -- any mail that is official election mail that is
4 correspondence between the office and the voter, that's all
5 scanned into the voter's record.

6 So, in my instance, as a voter here in Pima County,
7 if we were to look at my voter registration record, we would
8 see that there are nine different voter registration forms
9 that are attached to me as the voter because I've changed
10 something on my record nine times. I've either changed a
11 party affiliation or an address, you know, something along
12 those lines. So that we track those and those digital images
13 of all those voter registration forms are part of the voter's
14 record.

15 Q. Would there be situations where the office gets a form
16 and it looks like it could be the same person who has
17 previously submitted information, but you're not sure?

18 A. Yes, that happens a lot.

19 Q. Can you give an example of that kind of situation where
20 you got a new form, but you're not -- you're not sure that
21 it's the same as the person currently in the database?

22 A. So, in those instances, if you got a record and it's
23 similar to the form that you have and you think it might be
24 the same person, or you think it might be a different person,
25 the staff member will contact the voter. So the first contact

1 will be the person on the form, right.

2 So the physical form in hand will contact the voter and
3 say, "Hey, I see that there's a voter registration record for
4 you," you know, and -- and we've received it. We think we
5 might -- "is this an update or is it a new record?" And then
6 we ask a series of security questions to verify the voter, and
7 if those security questions are verified by the voter and they
8 match the information in the system, then we know that that's
9 the same person and we're just going to update their voter
10 registration form.

11 Sometimes that happens where people will say -- you know,
12 they'll look at your first name, a middle initial, and a last
13 name, and then they do a voter registration where it just has
14 a first name and a last name, and so it's a little bit of a
15 difference. That would kind of cause people to say, "Is this
16 the same person?" Let's double-check.

17 People who are juniors, seniors, you know, get a lot of
18 times fathers and sons who don't put the senior or the junior
19 and they have the same names, but they have different dates of
20 birth. That would be a cause for us to call and say, is this
21 -- "Is this you or is this your family member?"

22 Even people who have very similar names, so there
23 are -- there are a couple voters in Pima County who have the
24 exact same first name and last name, and whose dates of birth
25 are very close to each other, but they're not the same people.

1 So that would be a cause for us to contact the voter and
2 determine, you know, are you this person or are you the other
3 person, things like that. But it's always a cause for staff
4 to do follow-up.

5 Q. If there were an example of a name matching and the date
6 of birth matching, but the place of birth listed in the form
7 -- and I understand this has not been a required field
8 historically, but imagine that there's a -- you get a form
9 where someone says they're born in one state, in the existing
10 file you've got someone with the same name, date of birth, but
11 says they were born in another state. Would that be a cause
12 for follow-up?

13 A. It would. We would call that a soft match. So a soft
14 match is there are some things that match within the names,
15 dates of birth, things like that, and then there are some
16 things that do not match. It could be a place of birth. It
17 could be the last four digits of a sosc. So those soft
18 matches require additional follow up. If it is a hard match
19 from the form to the database and there are -- there's --
20 there's no question, that would not cause a follow-up.

21 Q. And earlier you mentioned that when you follow up with
22 voters you ask security questions?

23 A. Correct.

24 Q. What security questions would be asked?

25 A. So the security questions for a voter are determined

1 based off of the information provided on the voter
2 registration form. So Arizona's voter registration form has
3 certain required fields that every voter has to fill out and
4 we have to input that information into the voter registration
5 database and that's consistent across the State.

6 The other fields that are on the voter registration form
7 -- in Pima County, we will capture that information in our
8 database as well, and we will use those as security questions.
9 So if you were to send in your -- let's say you voted an early
10 ballot and it was mailed back to us and the affidavit envelope
11 had something on it that looked a little like the signature
12 didn't quite match, the signature that's on file, right, that
13 would go to our ballot resolution team, and then one of our
14 ballot resolution team members would call the voter with the
15 information that's on the affidavit envelope. Hopefully, it's
16 the correct phone number. Or they would contact the voter
17 based off of the information that's in the voter database,
18 whether it's an e-mail, sending out a letter, using a phone
19 number on file.

20 And once we were able to actually contact the voter
21 and speak to that voter on the phone, we would ask any one of
22 those supplementary field questions as a security question.
23 So what are the last four digits of your Social Security
24 number? What's the year that you were born? What is your
25 father's name or your mother's maiden name? What is the place

1 of birth?

2 Any one of those additional fields we would consider as a
3 security field to confirm the voter when speaking to them.

4 Q. Thank you. Switching topics a little bit, would the
5 Recorder's office, in your experience, sometimes get
6 information from a jury office stating that a particular
7 individual said that they weren't a citizen?

8 A. Yes. Yes, that does happen.

9 Q. Do you have a sense for how often it happens?

10 A. So the Jury Commissioner sends the County Recorder's
11 office a report of the responses of people who have been
12 called for jury and who have said that they aren't citizens
13 and so we get that list and the -- the standard is is that we
14 input that information into the system that says that these
15 individuals are not citizens, and then we send notification
16 out to those individuals, a letter saying we've been notified
17 by the Jury Commissioner that you stated you're not a citizen
18 and you're registered to vote. Your registration is going to
19 be cancelled. If this is in error, please contact us.

20 I don't know if that's what the letter says now, but
21 that's the gist of what the letter used to say. And then
22 citizens would call us back and say, "I got this letter in the
23 mail that says you're going to cancel my voter registration
24 because I said I'm not a citizen, when, in reality, I am a
25 citizen. I just said this so I didn't have to serve on a

1 jury." So we've had that happen, yes.

2 And then people who do not respond back to the letter, we
3 go forward and cancel the registration. And then, you know,
4 we have had people come that says I tried to vote and it shows
5 up that they have a cancelled voter registration, and then
6 they contact our office, and then we sort them out in that
7 respect.

8 So we have also had people when we've gotten the
9 notification -- a jury notification where the voter will tell
10 us that no -- at the time -- the Commissioner's jury
11 notification report isn't always timely. So the voter could
12 say yes, no, at the time I wasn't a citizen, so I couldn't
13 serve on a jury, but I've since been naturalized and we'll
14 have their naturalization information in the system and they
15 are a citizen.

16 Q. Do you have a sense for how many people would get one of
17 these letters and wouldn't respond?

18 A. No, not off the top of my head.

19 Q. Okay. Do you know how that situation -- so they get the
20 notice. They don't respond. Do you know how that would be
21 coded in -- in the registration system, what the status reason
22 would be for a cancellation?

23 A. Yes. So every time anything in the database for a voter
24 registration record, any change that's made to it is tracked
25 and it's called a note code. So if a voter registration is

1 cancelled, there are corresponding note codes to why the voter
2 registration is cancelled.

3 So it could have been felony conviction. It could have
4 been moved out of jurisdiction, voter request. It could also
5 be Jury Commissioner. Any number -- it's a -- it's a field
6 that's a dropdown field and the developer is able to add
7 additional note codes to customize it specifically for the
8 Pima County Recorder.

9 Oftentimes the note codes that the Recorder's office --
10 that Pima County uses do try to track -- and they're -- they
11 have parody to the note codes that are used by the other 13
12 counties for the AVID system.

13 Q. And do you have a sense for whether within the office
14 those note codes are applied consistently?

15 A. Yes, that's part of the first check, second check
16 process.

17 Q. Okay. I want to ask a general question. Are there
18 instances where -- well, let me ask it this way: Are there
19 ways that the various County Recorders can come to a consensus
20 on how to implement a given procedure? Are there -- are there
21 ways in which the County Recorders can communicate about that
22 kind of thing?

23 A. Yes. So the -- there are two -- two methods that County
24 Recorders use to do that. The first method is, obviously,
25 what is in the current Elections Procedures Manual, the 2019

1 version. So that's the one that's currently in effect until
2 they have adopted a new one. And those first chapters --
3 first two chapters, I believe -- it's been a while since I've
4 looked at the manual. Those first two chapters talk about
5 voter registration specifically and the contacting voters.

6 The other aspect of how County Recorders deal with voter
7 registration issues is through best practices called VRAC
8 papers. So the VRAC papers are advisory papers of procedures
9 as it relates to voter registration procedures throughout the
10 State. The VRAC papers are drafted and dispensed and then
11 ultimately adopted by the recorders and that's the -- the
12 elected recorders, not their staffs or their chiefs, but it's
13 ultimately once a VRAC paper is approved, that has kind of
14 like the force of best practice.

15 So how people encounter certain aspects of voter
16 registration we reference the VRAC paper to be able to make
17 sure that we are doing the same or similar process as other
18 counties.

19 For the most part, that's very helpful, except that for
20 Pima County and Maricopa County we have our own voter
21 registration databases that do operate differently in some
22 technical aspects than the AVID system. So those are -- VRAC
23 papers are written in such a way as to provide us enough
24 detail and guidance for procedures, but they're not written in
25 such a way to narrowly focus that this is what you'll do in

1 AVID versus Maricopa County or Pima.

2 Does that answer your question?

3 Q. It does, thank you.

4 MR. WHITAKER: I actually don't think I have any
5 further questions. Others may. Thank you very much.

6 THE WITNESS: You're welcome.

7 THE COURT: Mr. Langhofer.

8 MR. LANGHOFER: Thank you, Your Honor.

9 DIRECT EXAMINATION

10 BY MR. LANGHOFER:

11 Q. Ms. Hiser, good afternoon. I just have one question for
12 you -- well, one topic, I suppose.

13 Do you know the difference between forwardable mail and
14 non-forwardable mail?

15 A. Yes.

16 Q. What is that difference?

17 A. So for forwardable mail, it is any mail that the office
18 can mail out to a voter that can then be forwarded on to
19 another address. That could be an address change on file from
20 the post office. It could be a temporary holding address. It
21 could be any of those. Non-forwardable mail would be any of
22 the mail that would be official election mail. So any mail
23 like an early ballot, a 90-day notice, an update, sometimes we
24 send kind of like just updates to voters talking about
25 upcoming elections. That's all considered non-forwardable.

1 And if it comes back to us, then we would start the NVRA
2 process, which is just -- starting the process that the voter
3 has either moved and needs to contact us and we kind of put
4 them in a suspended status.

5 Q. And you said NVRA, that's the National Voting Rights Act,
6 correct?

7 A. Correct.

8 Q. What about notices when there's a defect in the voter
9 registration form? Like, for example, if there's a question
10 about citizenship status and you send the notification letter,
11 do those go out customarily by forwardable mail or
12 non-forwardable mail?

13 If you don't know, I don't want you to guess.

14 A. Yeah, I don't -- I can't -- I can't recall exactly. We
15 have two types of -- we have a blue envelope and a black
16 envelope. And so the black envelope is the election official
17 envelope and the blue envelope is the forwardable envelope,
18 and I just cannot recall as to which one we use for those
19 letters of correspondence.

20 MR. LANGHOFER: Thank you, ma'am.

21 No further questions.

22 THE COURT: Cross?

23 CROSS-EXAMINATION

24 BY MR. SHERMAN:

25 Q. Good afternoon, Ms. Hiser. My name is John Sherman. I

1 represent Poder Latinx and Chicanos Por La Causa in this
2 action. It's good to see you again.

3 I just wanted to revisit your experience, your testimony
4 about your experience. You were -- you had a different role
5 with the Pima County Recorder's office prior to being the
6 deputy -- Chief Deputy Recorder, correct?

7 A. Correct.

8 Q. And what was that role?

9 A. The Assistant Chief Deputy.

10 Q. Could you describe your responsibilities and the scope of
11 work related to voter registration and maintaining the voter
12 rolls across these two positions?

13 A. As the Assistant Chief Deputy, I was responsible for the
14 operations of the voter registration unit and the recording
15 unit. So I was the person in charge of our voter registration
16 unit making sure that supervisors and staff were responsible
17 for processing voter registration forms, preparing for early
18 voting and preparing for elections.

19 And then as the Chief Deputy, I was responsible for the
20 full operations of the department on both the voter and early
21 voting side, as well as the recording, and as well as the
22 budget and IT for the department.

23 Q. And prior to joining the Pima County Recorder's office,
24 you had experience in election administration as well,
25 correct?

1 A. Yes, I did.

2 Q. And what was that?

3 A. I was the Deputy Town Clerk for the Town of Marana in
4 Arizona.

5 Q. And for how long?

6 A. I was in that position for -- I was with the Town of
7 Marana for nine years.

8 Q. And you worked on voter registration procedures there as
9 well, correct?

10 A. Not voter registration procedures, but voting and
11 candidate filings, campaign finance report, ballot
12 propositions.

13 Q. Understood.

14 Have you met with any plaintiffs' counsel outside of your
15 deposition?

16 A. No, I have not.

17 Q. Okay. Your office was responsible for enforcing Arizona
18 election laws, correct?

19 A. Yes.

20 Q. And when I say "your office," can we stipulate I'm
21 talking about your former office, Pima County Recorder's
22 office?

23 A. Yes.

24 Q. Are you familiar with the Pima County Recorder's office's
25 voter registration policies and procedures?

1 A. I am.

2 Q. Are you familiar with the Challenged Laws in this case,
3 HB2492 and HB2243?

4 A. Yes, I am.

5 Q. Have you participated in internal discussions at your
6 office about these laws?

7 A. We did, yes.

8 Q. Are you familiar with your office's thinking on when to
9 implement these laws absent an injunction?

10 A. Yes.

11 Q. Are you familiar with the office's thinking on how to
12 implement these laws?

13 A. I am, yes.

14 Q. Is it your understanding that the EPM, the Elections
15 Procedures Manual, is binding on County Recorders?

16 MR. LANGHOFER: Legal conclusion.

17 THE COURT: Overruled.

18 You may answer.

19 THE WITNESS: Yes, it's my understanding that the
20 EPM is our guiding document for elections operations and
21 procedures.

22 BY MR. SHERMAN:

23 Q. And is it your understanding that Voter Registration
24 Advisory Committee or VRAC papers are just advisory and not
25 binding on County Recorders?

1 A. Yes, that is my understanding. We consider those to be
2 best practice.

3 Q. And as best practices, these are just recommendations,
4 but not something that any particular County Recorder's office
5 has to follow, correct?

6 A. Yes, that is the intent of a best practice, but it is
7 also the intent of the County Recorders as a whole to try to
8 do the same -- try to do the same processes to make consistent
9 -- to make it consistent across the State regardless of where
10 a voter is. So if we're all doing similar things, there's
11 less chance of us doing something outside the scope of another
12 county.

13 Q. Is it also your understanding that the VRAC papers don't
14 contradict, but supplement the EPM?

15 A. Yes, that is my understanding.

16 Q. Is it your understanding that outside of the EPM and
17 VRAC, no other documents originating from the Secretary of
18 State's office are binding on County Recorders' offices, such
19 as e-mails and memos?

20 A. We take the information from the Secretary of State's
21 office as advisory and any additional supplemental documents
22 or guides that they provide us we would use to help guide our
23 policies and our practices.

24 But an example of that would be that we have a guide
25 telling us how to review signatures for petitions that are

1 being challenged. So that is a guide from the Secretary of
2 State's office that we all use.

3 Q. Absent an injunction, are you required to enforce these
4 new statutes that are challenged in this litigation,
5 regardless of what makes it into the EPM, that the Secretary
6 of State, Attorney General and Governor sign off on?

7 A. Yes, that is correct. We are required to uphold the
8 Arizona State statute laws as written. That's our
9 responsibility as election officials.

10 Q. If there's no guidance in the EPM on a particular
11 election statute, for instance, in the two-year period between
12 revisions of the EPM, how does the County Recorder's office go
13 about enforcing that new law?

14 A. Well, we look towards the Secretary of State's office for
15 guidance. As the chief election official for the State of
16 Arizona, we look to the Secretary to provide all of us
17 guidance on how to do certain activities. And then with any
18 guidance that is provided by the Secretary's office, we would
19 work with our attorney to determine if that -- that guidance
20 is within the scope of our duties and within the law.

21 For laws that are particularly vague or
22 contradictory, it can make enforcing them very difficult for
23 us and so we would rely heavily on the Secretary's office to
24 give us some -- some guidelines that we can all use; but,
25 again, we would constantly refer back to our own counsel.

1 Q. And just so the record's clear, any guidance that the
2 Secretary -- or guidelines that the Secretary of State
3 promulgated or issued between EPM revisions, that would be
4 advisory, but not binding on the County Recorders, correct?

5 A. That would be correct.

6 Q. Has the office -- has the Pima County Recorder's Office
7 been enforcing HB2492 and HB2243?

8 A. We are still waiting on guidance on how to do that. At
9 the time of my tenure, we were still waiting on guidance on
10 how to do that. We -- I can't speak for what the office is
11 doing now.

12 Q. Okay. So the absence of guidance on how to implement the
13 laws was the main reason for not enforcing HB2492 and HB2243?

14 A. I would say that that is an accurate description, yes.
15 So without guidance, the ability for us to know -- there's
16 contradictory parts to those laws with federal law. So --

17 MR. LANGHOFER: Legal conclusion.

18 THE COURT: Overruled.

19 You may complete your answer.

20 THE WITNESS: So our understanding's from -- through
21 our attorney is is that we're either breaking federal law or
22 we're breaking state law, and so it kind of puts you in the
23 ability of, well, which -- what do we do?

24 So in the absence of guidance, we continued to
25 operate the same way we did prior to the passage of the bills.

1 BY MR. SHERMAN:

2 Q. Does the County Recorder's office work with its attorneys
3 to interpret and implement new election laws such as those
4 challenged in this lawsuit?

5 A. We do.

6 Q. Where is the County Recorder's office in that process for
7 HB2492 and HB2243, if you know?

8 A. At the time of my tenure, we were still waiting on a
9 decision from the Court. I do not know where the office
10 stands on that today.

11 Q. Understood. I want to shift gears a bit and ask you a
12 bit about the databases that are enumerated in both HB2492 and
13 HB2243, and just starting with ADOT or the MVD database.

14 When a HAVA check shows that a voter registration
15 applicant still has an F-type or foreign-type license in MVD's
16 data, does your office understand that to be information that
17 the applicant is not a US citizen?

18 A. It can be understood that the -- that the applicant is
19 not a US citizen absent any additional information on the
20 voter registration record, such as a naturalization number.

21 So if a -- some voters when they are naturalized
22 will register to vote at their naturalization ceremony. And
23 so we will register them, we will get their voter registration
24 information, and we will take those registration forms back to
25 the office, upload them into the system. So there's -- their

1 voter application can still have an F-type license and a
2 naturalization number and they are -- so the F-type license
3 doesn't play an impact to whether or not they are a citizen.

4 Q. Understood. Maybe I'll ask this a different way.

5 When you run a HAVA check and it turns up information
6 that someone's -- that registration applicant has an F-type
7 license in MVD's records, that's not conclusive as to their
8 citizenship status, correct?

9 A. Correct.

10 Q. Okay. And just stating it another way, can your office
11 use this MVD data to confirm a lack of US citizenship --

12 MR. LANGHOFER: Vague.

13 MR. SHERMAN: -- or do you have to take other steps?

14 MR. LANGHOFER: Vague.

15 THE COURT: Overruled.

16 You may answer.

17 THE WITNESS: I -- I would say that we would take
18 additional steps. The -- if it's a new registration that we
19 are inputting into the system, we would do follow-up steps.
20 It is -- the question that you've asked is a very technical
21 question on procedure, and I think that it really would be --
22 it depends on who's doing -- who's inputting the information
23 and who their supervisor is as to how many additional extra
24 steps they would take.

25 As I previously stated, we have a first check,

1 second check procedure, but for things like that, that would
2 probably -- a supervisor would most likely get involved and
3 provide additional guidance.

4 BY MR. SHERMAN:

5 Q. When you -- when a HAVA check turns up MVD data showing
6 an F-type license, your office sends that person a notice
7 asking them for DPOCs, correct?

8 A. Correct.

9 Q. Okay. Do you know whether an expired Arizona driver's
10 license or a de-issued after October 1st, 1996, that is
11 associated with DPOC, can be used to verify an individual's
12 citizenship?

13 A. The use of an expired license on a form?

14 Q. An expired Arizona driver's license or ID, the number or
15 the ID itself.

16 A. I think that our procedure stated it has to be an active
17 driver's license.

18 Q. Okay. Putting citizenship aside just for a moment, if
19 you had evidence that two years ago a person was enrolled in a
20 college in another state, would that be information that they
21 weren't an Arizona resident today?

22 MR. LANGHOFER: Foundation, speculation.

23 THE COURT: Sustained.

24 BY MR. SHERMAN:

25 Q. So back on citizenship. Because this MVD data showing

1 F-type licenses issued in the past is not conclusive as to
2 citizenship status, what's your understanding as to whether it
3 constitutes information that someone isn't a citizen?

4 MR. LANGHOFER: Legal opinion.

5 THE COURT: I'm sorry, I couldn't hear what you
6 said.

7 MR. LANGHOFER: Legal opinion.

8 THE COURT: Overruled.

9 You may answer concerning the practices at the Pima
10 County Recorder's office.

11 THE WITNESS: I'm not sure that I quite understand
12 your question.

13 BY MR. SHERMAN:

14 Q. Sure. I can repeat it. Because this MVD data showing
15 F-type licenses issued in the past is not conclusive as to
16 citizenship status, what's your office's understanding as to
17 whether it constitutes information that someone isn't a
18 citizen?

19 A. I don't think that we would say that that constitutes
20 information that they're not a citizen. It would just require
21 us to do additional follow-up.

22 Q. Understood.

23 THE COURT: Let -- let me ask Ms. Hiser a question.

24 Ms. Hiser, have you ever run across a situation
25 where you were given with the voter registration form a copy

1 of a naturalization certificate for the applicant and then you
2 ran the check through Motor Vehicles and showed F-type
3 license?

4 THE WITNESS: Yes, we've had that happen.

5 THE COURT: And if you have the actual
6 naturalization certificate, do you then just assume that the
7 F-type -- the F-type of the license is stale information and
8 register the voter without any other procedures?

9 THE WITNESS: Yes, we would go ahead and register
10 the voter because the naturalization certificate is the
11 documentary proof of citizenship. So people who come in and
12 provide us a birth certificate for a birth in the United
13 States or a US territory or on a US military base, we would
14 accept that. We would accept the naturalization form
15 certificate that's issued to a citizen.

16 A newly-naturalized citizen, we accept the -- copies
17 of a valid, non-expired US passport. So the documentary proof
18 of citizenship is the controlling factor as to determine
19 whether or not that person is a citizen on the form.

20 So, as I stated, if you -- you could have an F-type
21 license and then be naturalized and your license has not yet
22 changed with the DMV; but that certificate, that would be --
23 we would follow the certificate. We would disregard the
24 F-type license as an indicator that the person is not a
25 citizen.

1 Did that answer your question, Your Honor?

2 THE COURT: Yes, it did. Thank you.

3 BY MR. SHERMAN:

4 Q. Is there a separate field in AVID that indicates whether
5 a registrant has previously provided DPOC?

6 A. In AVID or in the Pima County voter registration
7 database?

8 Q. Excuse me, sorry. Is there a separate field in Pima
9 County's voter registration database that indicates whether a
10 registrant has previously provided DPOC?

11 A. Yes, there is.

12 Q. And that separate voter registration database is called
13 Voter, correct?

14 A. Correct.

15 Q. If your office were checking a registration, are you able
16 to tell if that registered voter ever previously provided DPOC
17 without doing some extra step?

18 A. Are you -- are you asking would we -- if the field in
19 Voter was not checked, would we do additional research through
20 another database?

21 Q. I'll -- I'll retract the -- I'll retract the question and
22 ask it a different way.

23 Is that -- is that field that you just mentioned before
24 that would show previously provided DPOC, is that readily
25 viewable or do you have to perform some extra step, click on

1 somewhere else to bring it up?

2 A. The field itself is viewable for a voter alert. So when
3 you're in the system and you bring up the voter registration
4 record, we can see that information in the voter's record.
5 For the information you can -- the Pima County Recorder's
6 office has public terminals in our lobby where people can look
7 up voter registration, information about Pima County voters,
8 and it will show only certain aspects of the voter
9 registration record for the public. That is not one of the
10 fields that's viewable by the public.

11 Q. Understood. If the HAVA check turns up an F-type license
12 in MVD's records, that MVD data will override the authorized
13 presence value in Voter that shows the person is a US citizen;
14 is that correct?

15 A. It's really a development question. My understanding of
16 the way the system works is, no, it won't. We'd have to
17 import the information. So the import of the information then
18 has to be mapped to the system.

19 So think of it like this: Voter talks to AVID and can
20 download information into AVID and can upload information into
21 AVID, and then voter is able to get information from the --
22 the -- the DMV information, I believe, goes through AVID,
23 which then comes through us.

24 And so we would map the files in the system. So there's
25 a download from the system and then the system does an

1 automatic mapping and updates, and then there's a quality
2 control check that is done on the development side. So if the
3 field has "citizen" checked, and it is checked even if the
4 field from DMV comes back as F, the way our -- my
5 understanding of the way that we've developed the Voter system
6 is is that our internal field controls.

7 If there's nothing within that internal field, then the
8 information that's downloaded will update, but, again, that's
9 a really -- that's a technical question related to the
10 development of the system.

11 Q. Might this turn on some of the technical differences
12 between Pima County's system Voter and the statewide voter
13 registration database AVID, such that the MVD data might
14 override that authorized presence value in AVID, but not in
15 voter?

16 MR. LANGHOFER: Foundation.

17 THE COURT: Sustained.

18 MR. SHERMAN: Understood. I'll move on.

19 BY MR. SHERMAN:

20 Q. Before moving away from MVD data, I want to ask you about
21 one document.

22 MR. SHERMAN: Stephen, could we pull up Plaintiffs'
23 Exhibit 220.

24 BY MR. SHERMAN:

25 Q. Ms. Hiser, can you see this document on your screen?

1 A. Yeah. It's kind of blurry, but yes.

2 Q. Are you able to read this document now that it's zoomed
3 in?

4 A. Yes.

5 Q. Okay. Ms. Hiser, what is this document?

6 A. This is an AVID -- looks like it's an AVID ticket and a
7 follow-up with an issue that we encountered with the voter and
8 AVID information.

9 Q. And you were in the "To" line for this e-mail, correct?

10 A. Yes.

11 Q. And do you remember receiving this e-mail?

12 A. I received a lot of e-mails in my tenure, but I do recall
13 this one, yes.

14 MR. SHERMAN: Your Honor, I'd like to move that
15 Plaintiffs' Exhibit 220 be admitted.

16 THE COURT: Is there any objection?

17 MR. LANGHOFER: No, Your Honor.

18 THE COURT: Without objection, Exhibit 220 is
19 admitted.

20 *(Exhibit No. 220 admitted into Evidence.)*

21 BY MR. SHERMAN:

22 Q. Ms. Hiser, if I could ask you to take a minute to review
23 this e-mail, and then I just have a few questions about it.

24 Just let us know when you're finished.

25 I think the first page is sufficient, so whenever you're

1 done with the first page, we can...

2 A. I'm done with that email.

3 Q. Thank you. Do you recall the circumstances of this
4 incident from last year?

5 A. Yes, I do.

6 Q. And what happened?

7 A. We had a -- there was an issue among several states.
8 Pima County was impacted where some of our voters -- when we
9 downloaded some information from AVID through -- I don't -- to
10 this day, I still don't quite understand the technical issues
11 that this caused; but the bottom line was, is that some of our
12 voters who were registered were registered as non-citizens and
13 so got a fed-only ballot, rather than citizens and got a full
14 Arizona ballot.

15 Q. So this was a database matching error, in your
16 recollection?

17 A. Yes.

18 MR. SHERMAN: And, Stephen, if you could just
19 highlight -- or scroll down to the third paragraph here and
20 just highlight that.

21 BY MR. SHERMAN:

22 Q. And these were Pima County voters who were, in fact,
23 full-ballot voters, correct?

24 A. They were.

25 Q. And they were erroneously flagged as --

1 MR. SHERMAN: Sorry, Stephen, I meant the paragraph
2 above.

3 BY MR. SHERMAN:

4 Q. And these were -- these were full-ballot voters who had
5 been erroneously identified as federal-only voters, correct?

6 A. That is correct.

7 Q. And the last line of this paragraph that's highlighted,
8 what does that reflect, the last sentence?

9 A. That indicates that at the time it appeared that we had
10 mailed out 558 records, 58 early ballots from this group, and
11 so we were assuming that 558 voters were -- had a federal-only
12 ballot when they should have had a full ballot.

13 Q. And what did your office have to do after those voters
14 were erroneously mailed federal-only ballots?

15 A. We did two things. We updated their records immediately
16 and then we mailed them -- if they hadn't returned a ballot
17 yet, we mailed them a full ballot and contacted them with the
18 explanation as to why they were getting a -- a new ballot.

19 And for voters who had returned an early ballot
20 already, if it had not gone in a batch over to tabulation, we
21 isolated and held those ballots, contacting those voters
22 letting them know that they were entitled to get a full
23 ballot. We would have given the option of having another
24 ballot mailed to them or having them come to an early voting
25 location and casting a full ballot.

1 Q. Just a minute ago you had referred to these individuals
2 as non-citizens. Did you mean that they were registered as
3 federal-only voters?

4 A. I misspoke, yes. Federal -- registrants who do not
5 provide proof of citizenship are considered federal-only
6 voters. They -- because they lacked documentary proof of
7 citizen, so they're just fed-only voters. They most -- you
8 know, they could be a citizen, but without -- until further
9 proof we treat them as a fed-only voter.

10 Q. And, in reality -- just to clear up the record, in
11 reality, these were, in fact, full-ballot voters not
12 federal-only voters, correct?

13 A. That is correct.

14 Q. Okay. Did any of them call the office or complain or ask
15 questions as to why this had occurred?

16 A. I think we might have gotten one or two people, but it
17 turned out to be a much smaller number than even this
18 indicates, if I recall.

19 Q. Okay. Just one other question on MVD. Is the field that
20 shows DPOC was provided in the past, is that sent up to AVID
21 so it can be seen if the voter later moves to another county?

22 A. We don't scan the DPOC, so it's -- the DPOC doesn't stay
23 as a digital record. It doesn't -- a scanned digital copy
24 doesn't stay with their record.

25 Q. Sorry. Not -- yeah, not a scanned copy of the DPOC

1 itself, but the indication, the data in Voter indicates --

2 A. Yes.

3 Q. Okay. So that's --

4 A. Yes, the field --

5 Q. -- uploaded to AVID?

6 A. Yes.

7 Q. Okay. So I want to shift and ask you about the SAVE
8 system. If you send a notice -- a notice letter out asking
9 for DPOC and the registrant responds with an alien
10 registration number or a naturalization certificate number,
11 what does your office do with that number?

12 A. We would run it in SAVE just for new registrants.

13 Q. And if SAVE returns a match to a record of a natural --
14 of naturalized or derived citizenship, that person is
15 registered as a full-ballot voter, correct?

16 A. Correct.

17 Q. And that's conclusive information that the person is a US
18 citizen, right?

19 A. Yes.

20 Q. But if the initial search turns up a status other than --
21 other than, you know, confirmed naturalized or derived
22 citizenship, is that conclusive information that the person is
23 not a US citizen?

24 A. I think we would treat it at the time as conclusive
25 information because it's coming from the federal government.

1 Q. Can you use SAVE to confirm a lack of US citizenship?

2 A. I think in that instance --

3 (Zoom connection lost.)

4 COURTROOM DEPUTY: Uh-oh. She's still there. Hold
5 on. Let me tell her to stop talking.

6 I'm sure she's still there.

7 Can you ask her if she can hear us?

8 MR. SHERMAN: Can you hear us, Ms. Hiser?

9 THE WITNESS: I can.

10 MR. SHERMAN: Okay, great.

11 COURTROOM DEPUTY: She's still talking. Hold on,
12 let me tell her to stop talking. I'm sure she's still there.

13 (Discussion off the record with Systems.)

14 COURTROOM DEPUTY: Can you hear us, Ms. Hiser?

15 THE WITNESS: I can.

16 MR. SHERMAN: Okay, great.

17 BY MR. SHERMAN:

18 Q. So when the line dropped off we were talking about SAVE.
19 I'll ask the question that's pending again.

20 So can you use save verification to confirm a lack of US
21 citizenship?

22 A. What I was saying when we dropped off was in that
23 instance we would send out a letter. So we would send out
24 notice that you've registered to -- we received your voter
25 registration form, we're processing your voter registration.

1 You'll get a -- you'll be registered as a federal-only voter
2 until we receive documentary proof of citizenship.

3 So we would put back on the onus of the voter -- the
4 registrant to provide the information.

5 Q. And your office follows this procedure both when
6 information is turned up in SAVE, other than naturalized or
7 derived citizenship, or when there's no match whatsoever,
8 correct?

9 A. I think so, unless they've changed it.

10 Q. Is your office familiar with USCIS's additional
11 verification procedures?

12 A. In what respect?

13 Q. So you said if initial verification in SAVE fails, you
14 send out a notice letter. Do you do anything -- does your
15 office do anything else with USCIS to try to verify the
16 nationalized or derived citizenship of that applicant?

17 A. No, not to my knowledge.

18 Q. Are there other individuals in the Pima County Recorder's
19 office who are responsible for SAVE verification?

20 A. Yes, so that would be the voter manager and the voter
21 supervisors. They would be the individuals and the voter
22 specialist so. . .

23 Q. And so it may be that --

24 A. The structure -- so the structure would be the chief
25 deputy, the assistant chief deputy, the voter manager, voter

1 supervisor, voter specialist, voter clerk.

2 Q. Understood. So those individuals may be engaging in
3 additional verification procedures, initiating additional
4 verification procedures with USCIS even if you're not plugged
5 into that process, correct?

6 A. Very possible, yes.

7 Q. Okay, understood. Are there any other sources of
8 information beyond MVD and SAVE that your office can use to
9 confirm US citizenship?

10 A. Other than provided by the voter registrant, we don't use
11 any other additional databases that I'm aware of.

12 Q. Are there any other sources of information that your
13 office can use to confirm a lack of US citizenship?

14 A. Not that I'm aware of, no.

15 Q. Are you aware of any databases beyond MVD and SAVE that
16 have information on US citizenship or lack thereof?

17 A. I don't know about citizenship. The Social Security
18 database provides information to the Secretary of State, which
19 is then funneled down to us regarding death of individuals.

20 Q. But not information on citizenship, correct?

21 A. Not that I'm aware of, no.

22 Q. Okay. Do you know if it's possible to confirm that a
23 person is not a US citizen?

24 A. Through the use of one of those databases?

25 Q. In any -- for the purposes of this question, in any

1 method.

2 A. No, we have no way to confirm unless we're given
3 documentary proof.

4 Q. Would your office consider a phone call, e-mail or letter
5 announcing a lack of US citizenship to be information that the
6 person calling, e-mailing or writing is not a US citizen?

7 MR. LANGHOFER: Objection, lack of foundation.

8 THE COURT: Sustained.

9 I've sustained the objection, Ms. Hiser.

10 BY MR. SHERMAN:

11 Q. Would your office consider --

12 MR. SHERMAN: May be heard on these questions?

13 THE COURT: No.

14 MR. SHERMAN: All right. Why don't we show
15 Connor -- why don't we bring up Day 2 of the trial testimony.

16 THE COURT: Okay, we're going to take a break.

17 We're going to reconvene in fifteen minutes. Court is in
18 recess until five minutes after 3:00.

19 COURTROOM DEPUTY: All rise.

20 (Recess taken at 2:51 p.m.)

21 COURTROOM DEPUTY: All rise, court is now in
22 session.

23 (Back on the record at 3:06 p.m.)

24 THE COURT: Thank you, please sit down.

25 Mr. Sherman, you may continue your cross-examination

1 of Ms. Hiser.

2 MR. SHERMAN: Thank you, your Honor.

3 BY MR. SHERMAN:

4 Q. Ms. Hiser, while you were in the Pima County Recorder's
5 office, was there any policy or practice on what to do if you
6 received information from law enforcement, private groups,
7 private citizens regarding the citizenship status of
8 applicants or registered voters?

9 A. There was no defined policy. If we had received
10 information from law enforcement, which we did not during my
11 tenure, but that's not to say it hasn't happened, we would
12 take the information from law enforcement and speak with legal
13 counsel regarding next steps.

14 During my tenure we did have private groups and
15 individuals provide us information about the registration of
16 people. Not specifically citizens, but people that they
17 believed had moved out of the jurisdiction and in those
18 instances we discussed with our counsel as to whether or not
19 we do additional research to verify that information based off
20 of our resources and if we had the time.

21 Q. And so there were multiple instances when this occurred?

22 A. After the 2020 Election, there was an increase in the
23 number of groups who considered themselves citizen election
24 integrity investigators, and so we would get correspondence
25 from those groups or individuals regarding -- based on the

1 voter rolls and would provide us things like screenshots of
2 files that would update or Facebook showing that somebody had
3 moved or something like that or links to recorder -- recorder
4 documents and other states or counties showing that somebody
5 had moved as reasons as to why to remove someone from our
6 voter rolls.

7 The first couple of times it happened it was just they
8 were small numbers so, you know, spend time kind of looking at
9 those individuals and see that those voters -- the
10 registrations had been updated, as was necessary based off the
11 information we were provided from the updates to addresses
12 from the post office, things like that.

13 So a lot of these people that they were looking at we'd
14 already had a updated registration on them, and then on some
15 of the other ones it was questionable, at best.

16 Towards the end of 2021 and starting in 2022 they would
17 be more frequent. There's one particular group that's their
18 goal is to identify voters who are -- should not be on the
19 voter rolls in states.

20 Q. And you dealt with these situations on a case-by-case
21 basis with your counsel?

22 A. Correct.

23 Q. Did you issue any kind of written, memorialized guidance
24 for all staff on how to deal with these occasions?

25 A. No.

1 Q. Understood.

2 MR. SHERMAN: Stephen, if we can pull up the Day 2
3 AM trial testimony. I just want to for just a quick minute
4 have you look at PDF Page 85 of this. This was Judge --
5 excuse me, this was Colleen Connor's testimony on Day 2. If
6 you could look at Lines 2 through 23 and just let me know when
7 you're finished.

8 THE WITNESS: Okay.

9 BY MR. SHERMAN:

10 Q. So Ms. Connor's testimony reflects the County Recorder's
11 offices must use their discretion to decide what is a reason
12 to believe a registered voter is not a US citizen, correct?

13 A. That is correct.

14 Q. And in practice, that might mean not just the discretion
15 of the County Recorder or him or herself, but the discretion
16 of their staff, correct?

17 A. In an office the size of Pima County, yes, it would be
18 the discretion of the staff.

19 Q. How many different people in the Pima County Recorder's
20 Office do you think would be responsible for enforcing a
21 provision like the "reason to believe" provision in HB2243?

22 A. To enforce it? Well, as I stated earlier, there's a
23 structure, right. So there's the chief deputy, the assistant
24 chief deputy, the voter manager, voter supervisors, voter
25 specialists and voter clerks.

1 So the clerks would do the information. The specialists
2 would resolve any sort of outside-of-the-box issues or
3 concerns. If they weren't able to resolve it, it would go to
4 a supervisor. The supervisor would then make a decision. If
5 they weren't able to make a decision, it would go to the
6 manager, and then up the chain of command.

7 Q. And how many people are in the each of these roles? I
8 know you've left the office, but at the time you were in the
9 office how many people were in each of these roles?

10 A. One chief, one assistant chief, one manager, three
11 supervisors, three specialists and then there were many more
12 clerks. So maybe six or seven clerks.

13 Q. Understood, thank you. If a registered voter is removed
14 from the rolls based upon an erroneous determination that they
15 are not a US citizen, what is your understanding as to whether
16 that voter can be added back to the rolls if the registration
17 deadline has already passed?

18 MR. LANGHOFER: Legal conclusion.

19 THE COURT: Overruled.

20 You can tell me if -- what the practice or procedure
21 was in your office.

22 THE WITNESS: In the County Recorder's office, if we
23 had determined that we had made the mistake and incorrectly
24 removed someone based off of information we received, we would
25 reinstate the person.

1 BY MR. SHERMAN:

2 Q. Are you aware of any law, regulation, EPM guidance or
3 anything else that tells County Recorder offices what to do if
4 they learn after the registration deadline that a registered
5 voter has been removed from the rolls based upon an erroneous
6 determination?

7 A. There's here's nothing in the guides that I am aware of
8 that would certainly -- in instances like that, that would
9 definitely be a call the Recorder would make in conjunction
10 with advice from counsel.

11 Q. Did your office have an established policy or practice on
12 this?

13 A. Not an established one, no.

14 Q. One last question on DPOC and citizenship verification.

15 What is the language -- what languages are the DPOC
16 notice letters available in?

17 A. English and Spanish.

18 Q. Okay. So you send out English and Spanish notice
19 letters. Any other languages?

20 A. Not at this time, no.

21 Q. Okay. Just a few more questions, then I'll be done.

22 Prior to the passage of HB2492 and HB2243, was it already
23 illegal in Arizona for a non-citizen to register to vote?

24 MR. LANGHOFER: Legal decision --

25 THE WITNESS: Yes.

1 MR. LANGHOFER: -- cumulative.

2 THE COURT: Overruled. The answer "yes" will stand.

3 BY MR. SHERMAN:

4 Q. And prior to the passage of HB2492 and 2243 did Arizona
5 already have policies, laws or procedures in place to prevent
6 non-citizens from registering to vote?

7 A. Yes.

8 Q. Based on your experience in the County Recorder's office,
9 do the Pima County Recorder's offices' protocols for
10 registering voters effectively mitigate the risk of his
11 non-citizens voting in Pima County?

12 MR. LANGHOFER: Improper legal opinion, testimony,
13 Your Honor.

14 THE COURT: Overruled. You may answer.

15 THE WITNESS: Yes, I believe the Pima County
16 Recorder's office procedures did a very good job of
17 registering people who were supposed to be -- who were legally
18 allowed to be registered and not registering people who were
19 not allowed to be legally registered, including people who
20 were not citizens.

21 BY MR. SHERMAN:

22 Q. Do the Pima County Recorder's office's protocols also
23 effectively mitigate the risk of non-residents voting in Pima
24 County?

25 A. Yes.

1 Q. Based on your experience, do you think it is plausible
2 that tens of thousands of non-citizens are voting in Arizona
3 elections?

4 MR. LANGHOFER: Improper opinion.

5 THE COURT: Sustained.

6 BY MR. SHERMAN:

7 Q. At least as of the time you left the Pima County
8 Recorder's office, did the office have any information or
9 documents regarding even a single instance of a non-citizen
10 registering or voting in Pima County in the past decade?

11 A. Not that I'm aware of, no.

12 MR. SHERMAN: I'll pass the witness to my -- I think
13 my colleagues just have a few questions, and then we'll pass
14 the witness.

15 CROSS-EXAMINATION

16 BY MS. LANG:

17 Q. Good afternoon, Ms. Hiser. My name's Danielle Lang, and
18 I represent the LUCHA plaintiffs in this matter. It's nice to
19 meet you. I just have a few questions for you so I won't take
20 up too much of your time.

21 Mr. Langhofer asked you about a term you used. You said
22 something about the NVRA process, and he asked you if you that
23 was referring to the National Voting Rights Act.

24 Do you know if that term is actually the National Voter
25 Registration Act that you were referring to?

1 A. Yes, that's the actual term. I misspoke.

2 Q. No problem, I just wanted to make sure the record was
3 clear on that question.

4 I think you mentioned that you -- you spoke with
5 Mr. Whitaker a little bit about issues with voter registration
6 forms during the 2022 cycle, and then he asked you about other
7 voter -- or other election cycles.

8 You have no personal knowledge of any issues related to
9 voter registration forms during the 2020 Election; isn't that
10 correct?

11 A. That's correct, I wasn't with the office during that
12 election.

13 Q. Okay. And in the 2022 cycle you were able to identify
14 these problematic forms that had been -- that had been turned
15 in by voter registration groups; is that correct?

16 A. Yes. So any form that was determined to be problematic
17 or have an issue with it, we internally designated it as a
18 "trouble," which just simply means that there is something on
19 it that requires additional investigation, additional support,
20 any number of reasons a form can be considered a trouble, and
21 it just basically requires follow-up.

22 The trouble forms are kept through the full election
23 cycle, and they're logged in the system kind of like a --
24 they're not -- it's not like a register -- they're not
25 registering the individual. They're logging the form as a

1 trouble so it's kind of like a suspended status, and during
2 the ballot cure period of an election once -- so on election
3 day anybody who goes to a vote center in Pima County or a
4 polling location in another county and they do not show up on
5 the roll for whatever reason, they're issued a provisional
6 ballot or a conditional provisional ballot depending on what
7 they've provided to the poll.

8 And during that period of time after the election all of
9 the provisionals, the provisional ballots and conditional
10 provisional ballots, are given to the Recorder's office and
11 then the Recorder's office goes through a process to find --
12 basically, find the voter to see whether or not the person was
13 able to vote in the election.

14 So one of the things that we do when we've -- are
15 processing the provisional ballot envelopes is to go through
16 the trouble file and see if we can actually find a voter
17 registration form for the person who has cast a provisional
18 ballot. If we are able to find the voter registration form
19 and see that it was received by our office before their
20 cut-off date, then that provisional ballot will then be
21 processed because they did register to vote; and then we would
22 do the necessary follow-up with the voter and things that
23 like. So that -- that's how we used the troubles and say, you
24 know, here's -- this provisional is good to go.

25 Once the election has closed and the cycle has closed,

1 then all of those trouble forms would then be archived and
2 they would go into archivings.

3 I'm not sure if that actually answered your question.

4 Q. Somewhat. So that was all very helpful background,
5 Ms. Hiser, but I think my question is a little narrower and
6 hopefully easier for you to answer, which is, Mr. Whitaker was
7 talking to you specifically about some identified problems
8 with voter registration groups turning in plainly incorrect
9 voter registration forms, correct?

10 A. Correct.

11 Q. And I just wanted to verify with you that your office had
12 procedures in place that you were able to identify those
13 plainly incorrect voter registration forms from groups,
14 correct?

15 A. Yes.

16 Q. And those voter registration forms didn't turn in to
17 active voter registrations because they'd been identified by
18 your office?

19 A. That is correct.

20 Q. And that's even without having these laws be -- that are
21 challenged here today, HB2492 and 2243 in effect, correct?

22 A. That is correct.

23 Q. Okay. Mr. Whitaker also talked to you about the Voter
24 Registration Advisory Committee as an opportunity to create
25 uniformity across the County Recorders.

1 As of when you left the office, do you recall the last
2 time that committee had actually issued a paper?

3 A. They had not issued a -- they had not approved a paper
4 for quite some time. We had had some draft VRAC papers that
5 had been circulating, but nothing the Recorders had formally
6 adopted as a committee.

7 I think that the last full VRAC paper that had been
8 adopted was maybe the tail end of 2020, maybe early 2021, but
9 it had been quite a while since we had a full VRAC paper
10 adopted.

11 Q. Thank you. You also mentioned kind of this uptick in
12 what you termed kind of citizen election integrity
13 investigators.

14 In your experience with those communications, were they
15 often providing reliable information about voter registration
16 status?

17 A. Hit and miss, I guess. It would just cover the -- it
18 would just cover like a variety of different information, and
19 they would get information from, you know, social media
20 sometimes. Sometimes they would get information from, like I
21 said, recorded documents in other jurisdictions.

22 We -- information that we would have taken -- given a
23 little bit more weight to and done further investigation would
24 have been information like copies of voter registration
25 records from other jurisdictions and, you know, perhaps copies

1 of records showing that voters had voted in other
2 jurisdictions while still registered in our own jurisdiction.

3 The thing about these election integrity groups is they
4 would focus on voters who were -- who wouldn't -- who wouldn't
5 show up on an ERIC cross state match. So the ERIC databases
6 -- it's kind of an electronic clearinghouse for many states to
7 upload their voter registration information so other states
8 can see it and see -- it's how we use -- that's how we figure
9 out if he's double voted in other states after elections.

10 Not every state participates in ERIC, and the voters
11 from -- from my recollection that they would call out would be
12 from states that weren't ERIC participants. So some of the
13 information might have been good and some of the information
14 might have been bad, and then some of the information was just
15 a misunderstanding of what it -- of registration laws here in
16 Arizona.

17 I think one that came to mind was we got a list of -- it
18 was like 30 voters who the request was that we remove the
19 voters from the roll because the voters were incorrectly
20 registered to commercial addresses and in Arizona you -- you
21 have some voters who are registered at commercial addresses
22 because they -- that's where they park their -- their RV and
23 so that's the parking lot that they park in or their houseless
24 and that's the area that they -- they live in so the cross
25 streets are the places that they -- so we would have people

1 like that asking to remove people because the address itself
2 was a commercial address and it's not eligible.

3 So it's things like that of not understanding the nuances
4 of voter registration in Arizona.

5 Q. And would following up on every piece of information
6 provided by these investigators be a drain on the County
7 Recorder's resources?

8 A. Yeah. I mean, there's 630,000 registered voters in Pima
9 County, and sometimes we would get, you know -- I think one
10 time we got, like, a list of 4,000 voters that they said
11 needed to be removed.

12 Q. Right.

13 A. But I -- so. . .

14 Q. Thank you. I'm going to move on to a different topic,
15 which is to ask you briefly about HB2492 documentary proof
16 of residence requirement.

17 Are you familiar with that residence documentation
18 requirement?

19 A. Yes.

20 Q. Okay. Based on your experience in voter registration,
21 are there certain populations that might struggle more than
22 others to comply with that requirement?

23 A. Absolutely.

24 Q. And could you identify some of those groups of voters
25 that would struggle more than others?

1 A. Well, the people who are transient and that's not -- that
2 could be people who have an RV and they -- they do camping.
3 That could be people who are houseless and they don't have a
4 fixed residence that they go to. It could be -- there's a
5 variety. Those are the two that come to mind immediately, but
6 yes.

7 Particularly for houseless voters, if they don't live in
8 a fixed residential, you know, domicile or they're not going
9 to a shelter consistently and they just have an area that they
10 -- a lot of people in Pima County who are houseless, they pick
11 a particular area of the county and that's kind of where they
12 stay and they camp there.

13 So we would register -- we'd get registrations of where
14 they would have the major cross streets of where their camp
15 was, and then we would help them find the closest post office
16 that would have general delivery to those major cross streets,
17 and that's how we would get them their registration.

18 Or often times, a lot of people would register them at
19 the Justice Court, so 240 N. Stone is Pima County Justice
20 Court. It's also the location of the Recorder's office. So
21 they would use the Justice Court as the registration, which is
22 totally acceptable under state law.

23 Q. Right. Are you familiar with the LULAC Consent Decree?

24 A. I -- I am familiar with it. I am not familiar with its
25 details.

1 Q. Okay. Is your general understanding of the consent
2 decree that it required County Recorders to treat state form
3 and federal forms equally as to documentary proof of
4 citizenship?

5 A. Yes.

6 Q. Okay. So I'll kind of submit to you as some foundation
7 here that there's a question about whether or not state and
8 federal forms might be treated differently as to documentary
9 proof of residence in this case.

10 So a circumstance where someone who turns in a federal
11 form without documentary proof of residence could become a
12 federal-only voter, and a person who turns in a state form
13 without documentary proof of citizenship would be rejected
14 altogether.

15 So with that background, based on your experience with
16 voter registration, is there -- is there a -- does the federal
17 form application provide the Recorder with any additional
18 information about residence that's not provided on the State
19 form?

20 A. No, the information on the federal form hits all of the
21 required boxes on the state form.

22 Q. And sitting here today, can you think of any election
23 administration reason to register federal form applicants that
24 do not provide that documentation of residence, but not state
25 form applicants that do not provide residence documentation?

1 A. I'm sorry, I don't quite understand your question.

2 Are you asking me is there -- would I think it's okay to
3 register someone with a federal form without documentary proof
4 of residence --

5 Q. No.

6 A. -- but not register?

7 Q. Yeah, let me rephrase because this is a hard thing to
8 kind of get at.

9 Basically, can you think of any kind of election
10 administration reason why you would treat state and federal
11 forms differently when it comes to documenting proof of
12 residence?

13 A. No.

14 Q. And what impact do you think treating state form and
15 federal form voters differently would have on voters?

16 MR. LANGHOFER: Speculation.

17 THE COURT: Sustained.

18 BY MS. LANG:

19 Q. Based on your experience with the documentary proof of
20 citizenship issue, what concerns would you have about treating
21 state form and federal form applicants differently?

22 MR. LANGHOFER: Improper opinion.

23 THE COURT: Whatever you said, Mr. Langhofer,
24 neither the court reporter nor I could understand it.

25 MR. LANGHOFER: Improper opinion, Your Honor.

1 THE COURT: Still didn't get it.

2 MS. LANG: Improper opinion, I believe.

3 Improper opinion, I think is what Mr. Langhofer
4 said.

5 THE COURT: Oh, okay, thank you. Overruled.

6 THE WITNESS: Could you repeat the question?

7 MS. LANG: Yes, I will try.

8 BY MS. LANG:

9 Q. Based on your experience in voter registration and the
10 documentary proof of citizenship issue, what concerns would
11 you have about treating state and federal form voters
12 differently with respect to documentary proof of residence?

13 A. Well, so we already have kind of a bifurcated process
14 between the two forms as it is, and it would create another
15 layer for us to have to -- if there's this -- it would just
16 make it really difficult.

17 I mean, it would just be very time-consuming because you
18 have to keep track of the type of form that's being registered
19 and then the specific regulations as it relates to that form,
20 and then if there were different regulations as it relates to
21 a state form and so you're making these -- there's a lot of
22 room for error to be made at the point of entry, and then
23 there's a lot of confusion that can happen from staff trying
24 to reach out to voters to get the appropriate information to
25 ensure that the voter can vote a full ballot versus not a full

1 ballot or if their registration has been, you know, rejected
2 outright; and then we give them another voter registration
3 form to be able to do this and then more clear -- it's just --
4 it's time-consuming is really what it is.

5 It's time-consuming and it adds a lot more on top of what
6 it takes to register -- when you use the first check and
7 second check procedure, so you do the whole process the first
8 time and then you do the whole same process the second time to
9 ensure that you're doing everything correctly.

10 So it's a -- it doesn't make operational sense from the
11 terms of effective use of resources.

12 Q. Thank you. You previously testified that such
13 differential treatment in the documentary proof of citizenship
14 context would erect a quote "unnecessary obstacle to
15 registration."

16 Do you recall that testimony?

17 A. Was that during my deposition?

18 Q. Yes. I can pull it up.

19 A. It was a very long deposition so. . .

20 Q. I know. Here, let's just pull it up really quickly.

21 So if we could go to Ms. Hiser's deposition, the Pima
22 County deposition Page 257.

23 MR. LANGHOFER: Improper impeachment. We should
24 just ask the witness the question.

25 MS. LANG: I thought I just did and she couldn't

1 recall.

2 THE COURT: Well, she can read this to refresh her
3 recollection. She didn't remember if she said this or not.
4 So just ask what she wants to read. She can read it to
5 herself, and then you can ask a question.

6 MS. LANG: Great. If you could read from Line 6 to
7 the end of the page, and then we'll go and read just a little
8 bit of the following page as well.

9 So just let us know when you need us to change the
10 page for you.

11 THE WITNESS: You can change the page.

12 MS. LANG: So the next page, great.

13 And just through Line 10 there.

14 BY MS. LANG:

15 Q. So based on this review, I'll amend my question a little
16 bit to say do you recall saying that a differential treatment
17 system like this would create an unnecessary barrier to
18 registration?

19 A. Yes.

20 Q. And would your view be the same if it was applied to
21 documentary proof of residence as opposed to documentary proof
22 of citizenship?

23 A. Yes.

24 Q. And that it would kind of require re-registration that is
25 kind of unnecessary red tape and bureaucracy?

1 A. Yes, it would.

2 Q. I just have one more topic for you, Ms. Hiser, which is:
3 Do you recall that the laws at issue in this case include some
4 provisions that include potential criminal sanctions on
5 election officials?

6 A. Yes, I'm very familiar with that section.

7 Q. Okay. Why do you say that you're very familiar with that
8 section?

9 A. When the laws were being discussed and the Recorder's
10 Association was providing feedback on it to the Legislature
11 through our lobbying, we emphasized that putting criminal
12 penalties on election workers would make our job more
13 difficult. It would also make our job -- it would make it
14 difficult for us to retain election officials, election poll
15 workers if they thought that a mistake could get them a
16 criminal penalty.

17 So we interpreted the language to be that a mistake would
18 always be considered criminal even if was an unintentional
19 mistake. So there were no protections for us.

20 Q. And was this an area of concern for staff within the
21 County Recorder's office?

22 A. Yes, this is a constant area of concern for staff and
23 election officials.

24 Q. And would you say that right now is already a
25 particularly difficult time for election officials in Arizona

1 in the current climate?

2 A. Yes, it is.

3 Q. And that it's been quite difficult for offices like the
4 Pima County Recorder's office to retain election officials
5 because of the current climate?

6 A. Yes, it is.

7 Q. And is it your view that felony provisions like the ones
8 in these laws only made those challenges harder?

9 A. That is my personal view, yes.

10 MS. LANG: I have no further questions. I believe
11 my colleague from the Department of Justice has a few more,
12 and then we will let you -- we will pass the witness.

13 Thank you.

14 CROSS-EXAMINATION

15 BY MS. BRAILEY:

16 Q. Good afternoon, Ms. Hiser. My name is Emily Brailey. I
17 represent the United States. I'm going to ask you just a few
18 very quick questions that you might remember from your
19 deposition about HB2492's birthplace requirement.

20 Is it fair to say that in your experience if a person
21 provides their birthplace on a state voter registration form,
22 Pima County does not use that information to determine whether
23 the person is eligible to vote in Arizona?

24 A. That is correct, we wouldn't use that information to
25 determine eligibility. That would be a security question.

1 Q. And I'll talk a little bit about the security questions
2 in one minute, but based on your experience you aren't aware
3 of any county that uses birthplace information to determine
4 voter eligibility, are you?

5 MR. LANGHOFER: Foundation.

6 THE COURT: Sustained.

7 BY MS. BRAILEY:

8 Q. Pima County does not have a way to verify birthplace
9 information, does it?

10 A. No, it does not.

11 Q. And, in fact, there's no database available to Pima
12 County that collects or aggregates birthplace information for
13 US citizens, is there?

14 A. Not that I'm aware of.

15 Q. Okay. So you mentioned earlier that the office -- and by
16 that I mean the Pima County Recorder's office -- uses
17 information from voter records as security questions to verify
18 a voter when they call. Do I have that correct?

19 A. That's correct.

20 Q. And so even when a person does not provide their
21 birthplace on a state form, your office was still able to use
22 information from the voter record to verify that caller if
23 they called; is that correct?

24 A. Yes.

25 Q. And based on your experience, when a Pima County official

1 is verifying a caller using a security question, would they
2 first prefer to use the last four digits of the caller's
3 Social Security number over other information in the voter
4 record?

5 A. It's kind of the discretion of the employee that's
6 contacting. So each -- each staff member that talks directly
7 with voters who either contact voters or who receive incoming
8 calls from voters, they each have their own particular
9 security questions that they like to ask.

10 Some people refer the last four digits of the sosc. Some
11 people will ask about mother's maiden name or father's name.
12 Some people will ask year of birth. It just depends on the
13 staff member.

14 Q. Did you know any staff members that preferred to use
15 place of birth as the first security question that they used
16 to verify a caller?

17 A. Not to my knowledge, no.

18 Q. And outside of security questions, does Pima County use a
19 person's birthplace for any other reason related to voter
20 registration?

21 A. No.

22 MR. LANGHOFER: Foundation.

23 THE COURT: The answer "no" will stand.

24 BY MS. BRAILEY:

25 Q. How about for any other reason related to identifying a

1 voter for purposes of determining whether they are eligible to
2 vote?

3 A. Not for determining eligibility.

4 Q. So based on your understanding of HB2492's birthplace
5 requirement, does a registrant's birthplace -- does that
6 information now provide the County with new information
7 regarding whether a person is eligible to vote?

8 A. No.

9 Q. And similarly, based on your understanding of the
10 requirement to provide birthplace in HB2492, a registrant's
11 birthplace information does not now provide the County with
12 new information that would allow the official to identify a
13 voter; is that correct?

14 A. That's correct, 'cuz it's already on the form.

15 Q. Okay.

16 MS. BRAILEY: No further questions.

17 Thank you so much.

18 THE COURT: So, Ms. Hiser, let me ask you a
19 question. If someone from the Pima County Recorder's office
20 called a voter -- or a voter called in and there was an
21 attempt to verify that they were speaking to the person who
22 was -- they were trying to speak to or the person who
23 identified themselves and the person's name was Joe Smith and
24 they were going to ask a security question and the question
25 asked was, "What state were you born in?" and the answer was

1 "Arizona," and the registration said "Arizona," would that
2 under the practices and policies of the Pima County Recorder's
3 office be sufficient to satisfy the security questioning?

4 THE WITNESS: No, we would ask a follow-up with
5 that.

6 THE COURT: Is that because the State of Arizona
7 would be such a common birthplace for Arizona registered
8 voters that it would not distinguish them for security
9 purposes?

10 THE WITNESS: That would be correct.

11 THE COURT: Is there a requirement that -- for
12 example, if the preferred question by one of the staff members
13 was, "What is the last four digits of your Social Security
14 number?" for Joe Smith and they were given and they were --
15 matched what was on the form, would that be sufficient to
16 identify that you were speaking to the correct Joe Smith?

17 THE WITNESS: It would. With a common name like Joe
18 Smith, this isn't -- this isn't, like, a written rule. It's
19 more like a -- it's more like a habit that people have
20 developed is that for very common names, you usually would ask
21 two questions, because names can be very common and you can
22 have -- so you'd ask the -- you'd ask the last four digits of
23 the Social Security number; and then if you had another field,
24 usually like a maiden name or a father's name, you would ask
25 that was well, and between those two pieces of information you

1 would be able to verify.

2 I -- the more experienced clerks usually ask two
3 pieces of information as verification, and they're usually two
4 pieces of information of -- pieces of information that people
5 wouldn't normally want to give out. So like your last four
6 digits of a Social Security number or your mother's made name,
7 pieces of information that would be considered a little bit
8 more private to the voter.

9 So we would -- I guess a good rule of thumb,
10 Your Honor, would be if someone requested my voter
11 registration application, the fields that were redacted on
12 that request, those would be the fields that we would ask
13 security questions on; and the fields are Social Security
14 number, phone number, mother's maiden name, father's name,
15 country date -- country state of birth. Those are redacted
16 fields.

17 THE COURT: Even for somebody who doesn't have a
18 very common name, would the answer "Arizona" to state of birth
19 be a sufficient security answer to identify that the person in
20 your office was speaking to the correct voter?

21 THE WITNESS: No, it wouldn't.

22 THE COURT: Mr. Whitaker, did you have any questions
23 on redirect?

24 MR. WHITAKER: Briefly, Your Honor.

25 THE COURT: You may proceed.

1 REDIRECT EXAMINATION

2 BY MR. WHITAKER:

3 Q. Ms. Hiser, you mentioned in your testimony that the
4 letter that is sent out requesting proof of citizenship is in
5 English and Spanish I believe you said; is that right?

6 A. Yes.

7 Q. Okay. If someone were to ask the office to translate it
8 into another language, would the office do that?

9 A. Yes, we would.

10 Q. Okay. Is the last four digits of someone's Social Social
11 Security number a required field on the registration form?

12 A. It is not.

13 Q. How about the mother's maiden name?

14 A. It is not.

15 Q. How about the father's --

16 THE COURT: Okay, this is cumulative. We've been
17 through this with other witnesses. I already know the answers
18 to these questions, and I don't expect Ms. Hiser to give any
19 different answers.

20 MR. WHITAKER: Fair enough, Your Honor.

21 That's all I have.

22 THE COURT: Mr. Langhofer.

23 REDIRECT EXAMINATION

24 BY MR. LANGHOFER:

25 Q. Good afternoon again, ma'am. Just a couple cleanup

1 questions here. Pima County, if it receives a voter
2 registration form and after running the HAVA check sees the
3 voter has an F-type license, but apart from the information on
4 the voter registration form and the HAVA return showing an
5 F-type license has no other information about whether this
6 person's a citizen, is Pima County's practice to register that
7 voter as a fed-only voter while you wait for them to provide
8 DPOC?

9 A. For a new registrant?

10 Q. Correct.

11 A. Yes, we would register them as a fed-only.

12 Q. You had been shown by -- I think it was Mr. Sherman --
13 the e-mail about late last year there being some trouble with
14 a HAVA system that caused some full-ballot voters to receive
15 federal-only ballots.

16 Is that the first time you're aware of a problem like
17 that coming up with the HAVA system?

18 A. I don't think that's the -- in my tenure, that was the
19 first problem that I had encountered that we had to deal with.
20 I don't know for sure if they've had other issues.

21 Yeah, I -- that's the first time I encountered that
22 particular problem.

23 Q. Okay. And did your office follow the Secretary of
24 State's recommendations in how to address the problem?

25 A. We did.

1 Q. Okay. Since you were deposed in this case, the Court has
2 interpreted the DPOR requirement narrowly -- or broadly
3 probably is a better way of saying it.

4 Rather than being required to provide a driver's license
5 or utility bill, for example, the voter could also provide a
6 declaration saying that they live at the address they claim.

7 You testified to Mr. Sherman -- again, I believe it was
8 Mr. Sherman -- that certain populations in your experience
9 would have more difficulty complying with a DPOR requirement
10 than others?

11 MS. LANG: Objection, misstates the record.

12 THE COURT: Overruled, please complete your
13 question.

14 BY MR. LANGHOFER:

15 Q. If the DPOR requirement has been narrowed or interpreted
16 so that you can just provide a declaration instead of an
17 official paperwork or utility bill, does that address your
18 concerns about certain populations having a more difficult
19 time providing DPOR?

20 A. Well, the declaration would be -- would come from the
21 Recorder's office. So it goes back to what would be the
22 responsibility of the Recorder's office to determine the
23 necessary information to provide a declaration; and the EPM as
24 written currently, there's no clear guidance and instruction
25 on how to provide a declaration.

1 They give us a template and say, "You can do this and
2 then you can stamp it and this is a declaration." So we're --
3 as a -- I guess how does the declaration help us if we are the
4 entity that is giving the declaration and then we're going
5 ahead and registering the people?

6 Q. So, yeah, there are a couple of issues mixed in together
7 here. So I'm going to try to tease them out so we're speaking
8 clearly.

9 One issue is whether there's a template declaration.
10 Let's just assume that the Secretary of State issued the
11 template that you could use. Of course, that may -- you know,
12 whether or not that will happen is something we can discuss,
13 but let's just assume that they do.

14 A. There is a template in the current EPM.

15 Q. Okay, thank you for that. The second -- another issue is
16 whether this should be required for state form applicants if
17 it's not required for federal form applicants. Let's sort of
18 put that aside as, I think, a separate issue.

19 What I'm really wondering about is you had expressed
20 concern that certain populations wouldn't be able to meet the
21 DPOR requirement, but if they can satisfy it by just filling
22 out a form -- a declaration form that's -- there's a template
23 available for everyone, does that address your concerns about
24 the difficulties of some populations relative to others in
25 satisfying the requirement?

1 MS. LANG: Objection, misstates the record and the
2 Court's prior ruling.

3 THE COURT: Overruled, you may answer.

4 THE WITNESS: So -- I mean, yes. If there were a
5 way to prove residency in a way that was easy, then yeah. Any
6 additional supplemental information we can get with a voter
7 registration record to firm a record and make sure that that
8 voter can be registered to vote the full ballot, we will use
9 to ensure that every eligible voter is able to vote the full
10 ballot that they're entitled to.

11 BY MR. LANGHOFER:

12 Q. The next question I apologize for asking, but we just
13 need a complete record. It's certainly fair to say that Pima
14 County does not knowingly register anyone who's unqualified to
15 vote, does it?

16 A. I would say that's correct. We do not unknowingly
17 register people.

18 Q. Yeah, thank you. I don't mean to suggest otherwise.
19 It's just for the record.

20 Last one. You talked to the United States Government
21 about whether your former employer uses birthplace for
22 purposes of registration, determining eligibility, and your
23 office follows the EPM to the extent it governs voter
24 registration, right?

25 A. Correct. The 2019 EPM, yes.

1 Q. And so if that EPM said that in certain circumstances
2 consideration of birthplace were appropriate, you would follow
3 that, right?

4 A. If it were clearly laid out in the EPM, yes.

5 Q. Okay. And one example that we've discussed before, I
6 believe, is if there were two people with the same name and
7 same birthday but different birthplaces, your office would
8 look at the birthplace, in part, to determine whether this is
9 the same person or two different people who happen to have the
10 same name and birthday, right?

11 A. Correct, we would follow up with the voter. We would
12 make contact. We would want to speak with the voter.

13 MR. LANGHOFER: Thank you, Your Honor.

14 No further questions.

15 THE COURT: Thank you.

16 Ms. Hiser, thank you very much. We are going to
17 leave the meeting.

18 THE WITNESS: Okay, thank you.

19 THE COURT: Defendants may call their next witness.

20 MR. HORLEY: Defendants call Analee Shreeve also
21 over Zoom.

22 COURTROOM DEPUTY: Ms. Shreeve, are you able to hear
23 me okay? This is the courtroom deputy.

24 THE WITNESS: Yes, I can hear you.

25 COURTROOM DEPUTY: Will you please raise your right

1 hand.

2 (Witness is sworn.)

3 THE COURT: You may proceed, Mr. Horley.

4 MR. HORLEY: Thank you, Your Honor.

5 DIRECT EXAMINATION

6 BY MR. HORLEY:

7 Q. Good afternoon and hello, Ms. Shreeve. I don't believe
8 we've met before so nice to see you and thank you for being
9 here.

10 A. Thank you for having me.

11 Q. Could you please state your first and last name for the
12 record?

13 A. Analee Shreeve.

14 Q. And where are you employed, Ms. Shreeve?

15 A. I am employed in the Apache County Recorder's office as
16 the voter registration supervisor.

17 Q. And how long have you been at the Apache County
18 Recorder's office?

19 A. It's been about one year.

20 Q. Okay. Had you worked as an elections official before
21 joining the Recorder's office?

22 A. No, I had not.

23 Q. And what are your primary responsibilities as the voter
24 registration supervisor?

25 A. To look over -- you know, oversee my other employees,

1 make sure that the voter registration is -- runs smoothly,
2 everything from all of the early voting and all of that stuff.
3 So there's only two employees in Apache County in voter
4 registration so. . .

5 Q. Understood. Do you personally handle the intake of voter
6 registration applications?

7 A. I do.

8 Q. And do you personally enter the data from voter
9 registration applications into Apache County's voter
10 registration files?

11 A. I do.

12 Q. How many voter registration applications per day does
13 your office typically receive?

14 A. On a daily basis maybe four or five, and then we also
15 have our easy voters that come in through the MVD. There's
16 probably about the same amount there, so total of about ten.

17 Q. Okay. And can you recall an incident in your time at the
18 Recorder's office where you received a batch of applications
19 that appeared to have false information on them?

20 A. We did receive some, yes. It was shortly after last
21 year's election. There was some that were given to us through
22 the Secretary of State's office. They -- some were -- could
23 be fraudulent. Some -- they were all filled out the same way
24 and were handed out or gathered by a voter group that was
25 trying to get voter registrations in. So they all came from

1 the same source; and, yes, they were suspect.

2 Q. Okay. And how many such forms did you receive in that
3 incident?

4 A. I don't know the exact number. It was probably around
5 20, 20 or 25, something like that.

6 Q. Okay. And how could you tell that these were submitted
7 by a third-party registration organization?

8 A. There's a source code on the top right of the forms that
9 identifies where they were sourced from.

10 Q. Okay. And how could you tell there were problems with
11 these forms when you received them?

12 A. For the most part, they were all filled out the same.
13 They would put the name, the date of birth, like the very,
14 very -- like the things that we have to have on the form in
15 order to process it, but not like any of the other parts of
16 the forms were filled out.

17 Sometimes there was not an address from physical or
18 mailing or otherwise. So they all were filled out similarly
19 and some of -- I believe that we did have a few that were
20 filled out by the same person but days apart, so they seemed
21 suspect to us.

22 Q. Okay. How did you confirm that the information on them
23 was false?

24 A. So it's not necessarily that they were false, but some of
25 the registrants were already registered somewhere in Arizona.

1 So we could look them up in the AVID system and see if they're
2 there. They just seemed suspect because they were all filled
3 out similarly and we knew that the group that was handling the
4 forms, that was gathering the forms, had changed their name
5 several times. We knew the source that they were coming from.
6 We can't prove it or otherwise, but there was suspicion that
7 they were being paid to fill out the form. So some were
8 correct, some were not. I don't know.

9 Q. Yeah, thank you. And so what did your office do to
10 resolve this issue?

11 A. So they're currently in the hands of our new Chief
12 Deputy. We did have some turnover this year, and I had
13 personally gone through each of them. If there were some that
14 I was able to process because there was enough information, we
15 did go ahead and process those, you know, updated the voter's
16 file, that sort of thing.

17 We are in the works of getting them to our County
18 Attorney so she can review them. So some of them we weren't
19 able to verify at all just because there was nothing -- we
20 couldn't find their name. There's no driver's license or
21 anything on there. We can't verify who the person was that
22 filled out the form so. . .

23 Q. Okay. And in your deposition you testified that you
24 assumed that these forms were being collected fraudulently,
25 right?

1 A. That is the suspicion. I don't -- I haven't heard
2 anything more than that, but at the time I was brand new to my
3 position and there was a suspicion that the people that were
4 disseminating the voter registration forms were being paid to
5 do so and buy a form, and so they were giving the person
6 selling it out part of that is the suspicion. I can't prove
7 that, though.

8 Q. Okay, understood. And was this the only incident like
9 this that you have seen in your time at the Recorder's office?

10 A. In my time, yes, that's the only time that I've seen
11 that.

12 Q. Okay. Just a few more questions for you, ma'am.

13 In your experience with the Recorder's office, have you
14 found that Arizona's voting statutes can be difficult to
15 understand?

16 A. Sometimes, yes. The legal jargon, you know, is difficult
17 for the lay person to understand; but for the most part, if I
18 have any questions on them, I always reach out either to our
19 County Attorney or to someone at the Secretary of State's
20 office for direction so, you know, we don't just leave it
21 uninterpreted, I guess.

22 Q. And in those situations is it helpful to look at the
23 guidance in the Elections Procedures Manual?

24 A. It is. The elections -- the current Elections Procedures
25 Manual is helpful. Obviously, the information is there. It's

1 just a little bit hard to navigate that -- the book. So it's
2 hard to find the specific thing that you're looking for easily
3 and quickly so. . .

4 Q. Okay. And to your knowledge, have the laws at issue in
5 this case been implemented yet?

6 A. No, they have not.

7 Q. And could an updated EPM help clarify how to implement
8 these laws?

9 A. Yes, that would be very helpful.

10 Q. I wanted to ask one more question, Ms. Shreeve, about
11 that incident that we were talking about involving the false
12 registration forms.

13 A. Uh-huh.

14 Q. Was one of those forms that you received, did it have the
15 name of someone in your family, I believe, was on one of the
16 forms; is that right?

17 A. Yes. Yes, it did. As I was going through them, I
18 recognized one of the addresses and it was actually my
19 parents' address, and the person turned out to be my adopted
20 brother, who I knew was living on the streets and had just
21 gotten out of prison. So I knew that he's a felon, and he had
22 actually filled out one of those forms.

23 Q. Okay.

24 MR. HORLEY: I have no further questions, thank you.

25 THE COURT: Any other questions of this witness on

1 direct?

2 MR. LANGHOFER: No, Your Honor.

3 THE COURT: Cross, Mr. Sherman?

4 CROSS-EXAMINATION

5 BY MR. SHERMAN:

6 Q. Good afternoon, Ms. Shreeve. Just a few questions for
7 you. How long have you worked in the County Recorder's
8 office?

9 A. It has been almost exactly a year. I started there
10 November 4th of last year.

11 Q. And do you have prior background in election
12 administration before this position?

13 A. No, I do not.

14 Q. Have you met with plaintiff's counsel outside of your
15 deposition?

16 A. No, I have not.

17 Q. As a County Recorder -- as an employee of the County
18 Recorder's office, your office is responsible for enforcing
19 Arizona election laws, correct?

20 A. That is correct, but we're not enforcing them. We're
21 supposed to adhere to them, yes.

22 THE COURT: Maybe complying with them would be a
23 better question.

24 THE WITNESS: And complying, yes.

25 MR. SHERMAN: I'll reask it. Are you --

1 THE COURT: Well, I think she's already answered it.

2 MR. SHERMAN: All right. Understood, Your Honor.

3 BY MR. SHERMAN:

4 Q. You are familiar with the Apache County Recorder's
5 office's voter registration policies and procedures, correct?

6 A. I am.

7 Q. And you're familiar with the Challenged Laws in this
8 case, HB2492 and HB2243?

9 A. I am.

10 Q. Have you participated in internal discussions about how
11 to enforce these laws?

12 A. For now we're not -- we're not discussing that because
13 we're not enforcing those at this time.

14 Q. Are you familiar with the office's thinking on when to
15 enforce these laws absent an injunction?

16 A. We will enforce those laws when we are told that it is
17 okay to go ahead and do that.

18 Q. So you're waiting for direction from the Secretary of
19 State's office or your counsel or some --

20 A. Yes, that's correct.

21 Q. From which? Who are you waiting for direction from?

22 A. From either/or, yeah.

23 Q. Absent an injunction, are you required to enforce these
24 new statutes regardless of what makes it into the EPM that the
25 Secretary of State, Attorney General and Governor sign off on?

1 MR. LANGHOFER: Legal conclusion.

2 THE COURT: Sustained.

3 THE WITNESS: I'm not exactly sure --

4 THE COURT: Ms. Shreeve, you don't have to answer
5 the question. Thank you.

6 THE WITNESS: Okay, thank you.

7 BY MR. SHERMAN:

8 Q. If there's no guidance in the EPM on a particular
9 election statute, for instance, when the Legislature enacts a
10 new election law in the two-year period between EPM revisions,
11 how does your office go about enforcing that new law?

12 A. We do wait for direction from the Secretary of State's
13 office in those cases.

14 Q. Do you do anything else?

15 A. Refer to our County Attorney in those cases as well.

16 Q. Where is the County Recorder's office in that process for
17 HB2492 and HB2243?

18 A. As of right now, we don't have any plans.

19 Q. Okay, understood.

20 A. Either/or, yeah.

21 Q. Is the office waiting for this litigation to conclude?

22 A. That's correct, yes.

23 Q. The DPOC notice letters that your office sends out, are
24 they only in English and Apache?

25 A. I believe that right now they are in English and we have

1 Spanish. We also have translators that we can put them out in
2 Navajo as well.

3 Q. Understood. I want to ask you just a few questions about
4 the SAVE system. If you send out one of these DPOC notice
5 letters and the person -- the recipient responds with an alien
6 registration number or a naturalization certificate number,
7 what does your office do with that number?

8 MR. LANGHOFER: Cumulative.

9 THE COURT: Overruled. You may answer -- well, let
10 me ask you: Since you've been there, has that happened, that
11 you've sent out a letter to someone who was trying to register
12 saying, "You need to provide us with documentary proof of
13 citizenship," and they returned the letter with an alien
14 number or a naturalization number?

15 Has that happened since you've been there?

16 THE WITNESS: Only one time and the -- the woman had
17 come to our office. So we didn't have to send out a letter.
18 She came to our office with her documents.

19 THE COURT: So she actually brought the certificate?

20 THE WITNESS: Yeah, she brought the proof of
21 citizenship and everything to the office, uh-huh.

22 But, no, as far as letters going out, no, we have
23 not had to do that.

24 BY MR. SHERMAN:

25 Q. Do some registration applicants -- do some registration

1 forms that you've received already have the alien number or
2 naturalization certificate number on it?

3 A. I actually personally have not come across any that have
4 that alien number or naturalization number. Most of the
5 applicants either provide their tribal ID or their Arizona
6 driver's license.

7 Q. Are you responsible in your office for conducting SAVE
8 verification?

9 A. I am, yes, but I have yet to go through the training for
10 that.

11 Q. Understood. So you have no familiarity with any
12 additional verification procedures that USCIS may have; is
13 that correct?

14 A. That's correct, yeah. We don't have the occasion to have
15 to utilize anything more than what we've got right now, at
16 least not yet, not that I've come cross.

17 Q. Are the DPOC notice letters that your office sends out,
18 are they translated into any other languages beyond the ones
19 that you listed before?

20 A. No, not that I know of, no.

21 Q. Okay. Are there any other sources of information beyond
22 MVD databases and SAVE that your office can use to confirm US
23 citizenship?

24 A. Personally, I'm not -- I'm not aware of any others just
25 because we haven't had to use them. Like I haven't had to go

1 outside of what we have available.

2 Q. Are there any sources of information that your office can
3 use to confirm lack of US citizenship, as far as you know?

4 A. As far as I know, no, there's not.

5 Q. Does your office -- I know you've only been there for
6 about a year, but as far as you know is there an established
7 policy or practice for what to do if your office receives a
8 list of alleged non-citizens from a private citizen, a private
9 group or law enforcement officer?

10 A. There isn't right now anything in place, but if I were to
11 receive a list like that, I would definitely take it to our
12 County Attorney first to get direction on where to go from
13 there.

14 Q. You'd deal with that situation on sort of a case-by-case
15 basis?

16 A. Yes.

17 Q. Okay. This hasn't happened in your tenure as of yet,
18 correct?

19 A. No. It has not, no.

20 Q. All right. Just a few more questions.

21 If a registered voter is removed from the rolls based
22 upon an erroneous determination that they're not a US citizen,
23 what is your understanding as to whether that voter can be
24 added back to the rolls if the registration deadline has
25 already passed?

1 A. I am not sure in that case. I would have to -- I know
2 that they do have the ability to update their information. I
3 would definitely consult with my -- my County Attorney before
4 I did that but I do -- I believe that they do still have the
5 right if there's an update to be made, that we can make that.

6 Q. Understand, but you're not --

7 A. But, like I said, before -- before I would do that, I
8 would definitely consult with my attorney.

9 THE COURT: And I take it that situation has not
10 occurred in the year that you've been in the office; is that
11 right.

12 THE WITNESS: That's correct, we haven't come up
13 with that. I know that we've discussed it in some of the --
14 like the Recorder's meetings and that sort of thing. That's
15 where my knowledge of that situation comes from so. . .

16 BY MR. SHERMAN:

17 Q. Is it fair to say your office doesn't have an established
18 policy or practice on this?

19 A. No, we do not, no.

20 Q. Okay, understood.

21 MR. SHERMAN: I have no further questions, but my
22 colleagues may have a few. Thank you.

23 THE COURT: Are there any additional questions for
24 this witness on cross-examination?

25 MS. LANG: Yes, your Honor, just a few.

1 CROSS-EXAMINATION

2 BY MS. LANG:

3 Q. Good afternoon, Ms. Shreeve. Just a few questions for
4 you. My name's Danielle Lang. I represent the LUCHA
5 plaintiffs in this matter. It's nice to meet you.

6 There are a number of voters in your county that live in
7 very rural areas; is that correct?

8 A. That is correct.

9 Q. And in your time and experience at the County Recorder's
10 office, is it your experience that many of those rural voters
11 do not have standard addresses?

12 A. That is correct.

13 Q. And is the current practice that those voters often
14 provide their residency to your office by drawing the location
15 of where they live, for example?

16 A. Yes, that's correct.

17 Q. You were asked a question by Mr. Horley that -- along the
18 lines of the laws in question here, HB2492 and HB2243, have
19 not been implemented yet. Do you remember that?

20 A. That's correct, yeah.

21 Q. And you testified that the laws have not been
22 implemented. I just want to clarify. Your testimony is that
23 your county has not implemented those laws yet, correct?

24 A. That is correct.

25 Q. And it would be correct to say that you can't speak to

1 every county in the state?

2 A. No, I cannot speak to the other counties.

3 Q. So, for example, you wouldn't have any knowledge about
4 whether or not Cochise County has testified that they have
5 begun implementation in this case?

6 A. That's correct, I wouldn't have any idea.

7 MS. LANG: I don't have any further questions.

8 I will pass the witness to my colleague, if she has
9 if any.

10 MS. BRAILEY: No questions, your Honor.

11 THE COURT: Thank you.

12 Anything on redirect?

13 MR. HORLEY: Not from the State, thank you.

14 REDIRECT EXAMINATION

15 BY MR. LANGHOFER:

16 Q. Good afternoon, ma'am. I promise we're near the end.

17 You'd mentioned the non-standard -- drawing the
18 non-standard addresses in the rural parts of your county?

19 A. Uh-huh.

20 Q. Has your county been accepting address and residence
21 information provided in that way for some time?

22 A. Yes, we have. Our county is majority Navajo Nation and
23 then -- and, also, the southern part of our county also has a
24 lot of rural addressing as well; but, yes, we have been doing
25 that for quite some time.

1 Q. If the only description that someone can give of their
2 residence is something like two miles north of Milepost 391,
3 do you accept that sort of description?

4 A. Yes, we do.

5 MR. LANGHOFER: No more questions, your Honor.

6 THE COURT: Does that complete this witness'
7 testimony?

8 MR. HORLEY: Yes, your Honor.

9 THE COURT: Ms. Shreeve, thank you very much for
10 participating in the trial today. We are going to leave the
11 meeting.

12 THE WITNESS: Thank you.

13 THE COURT: Do plaintiffs have another witness?

14 MR. HORLEY: The defendants would like to call --

15 THE COURT: Sorry, I meant defendants.

16 MR. HORLEY: Yes, no problem.

17 I would like to call Ms. Sara Johnston.

18 THE COURT: Is she here live and in person?

19 MR. HORLEY: Over Zoom, Your Honor.

20 COURTROOM DEPUTY: Hi, good afternoon. This is the
21 courtroom deputy. Can I please have you raise your right hand
22 for me.

23 *(Witness is sworn.)*

24 THE COURT: And could the gentleman who's present in
25 the conference room with Ms. Johnston please identify himself.

1 MR. KEREKES: Good afternoon, Your Honor, Bill
2 Kerekes, Deputy County Attorney representing Richard Colwell,
3 Yuma County Recorder.

4 THE COURT: Mr. Horley.

5 DIRECT EXAMINATION

6 BY MR. HORLEY:

7 Q. Okay. Good afternoon, Ms. Johnston. Nice to see you
8 again. My name is Tim Horley, and I represent the State and
9 Attorney General in this case. Thank you for taking your time
10 out of the your busy schedule today to join us.

11 Could you please state your first and last name for the
12 record?

13 A. Sara Johnston.

14 Q. And where are you currently employed, Ms. Johnston?

15 A. I am currently employed with Yuma County Conflict
16 Administration.

17 Q. Did you previously work at the Yuma County Recorder's
18 office?

19 A. Yes.

20 Q. How long did you work at the Recorder's office?

21 A. About five years.

22 Q. And what was your job title at the Recorder's office?

23 A. I was the voter -- or voter services coordinator.

24 Q. And when did you leave the Recorder's office for your
25 current role?

1 A. January of 2023.

2 Q. And what is your title at your current job?

3 A. I am a legal secretary.

4 Q. And what were your primary responsibilities as the voter
5 services coordinator?

6 A. To administrate early voting and to supervise the voter
7 registration staff.

8 Q. And did you ever personally handle the intake of voter
9 registration applications?

10 A. Yes.

11 Q. And did you supervise those who handled that personal
12 intake as well?

13 A. Yes.

14 Q. And do you have experience personally entering the data
15 from voter registration applications into Yuma County's voter
16 registration files?

17 A. Yes.

18 Q. And do you still consult for the Recorder's office?

19 A. I do.

20 Q. What kind of consulting do you provide?

21 A. Such as the deposition we recently did. Again, here
22 today. If they have any questions about how I did things at
23 the time I was there or just everyday administrative tasks, I
24 can assist them with those things.

25 Q. And how often do you interact with folks at the

1 Recorder's office in your current role?

2 A. In my current job role or as a consultant?

3 Q. As a consultant.

4 A. Maybe a handful of times since I've left in the last ten
5 months.

6 Q. Okay, thank you. In your time at the Recorder's office,
7 did you ever receive registration applications that appeared
8 to contain false information?

9 A. Yes.

10 Q. Could you explain a little bit about what you received?

11 A. Sure. Typically during right before an election cycle we
12 would get hundreds to upwards of thousands of registration
13 forms from third-party registration groups, and some of those
14 times we would get those registration forms and because of
15 where we live, it's a small town, we were able to identify
16 specific people with date of births that are not theirs; or
17 even as far as to having a co-worker have somebody register
18 her parents' house that she obviously knew they don't live
19 there.

20 Some of the forms will have names of registered voters in
21 Yuma County at another date of birth of another person here in
22 Yuma County, almost as if it was combined information of
23 different people.

24 Q. And have you seen forms where it appears that voter
25 registration applicants are lying on their applications?

1 A. I don't think it was the applicants. I think it was the
2 circulators filling those out, but that's just a personal
3 opinion.

4 Q. Okay. So in those instances that you --

5 THE COURT: Excuse me. In these circumstances that
6 you're talking about, would the voter registration forms be
7 brought in by the group that was doing the registration rather
8 than being brought in individually by the registrant?

9 THE WITNESS: Yes, it was almost always brought in
10 by the third-party groups. I would say -- I don't think I
11 ever witnessed somebody bringing in a form that they filled
12 out with a third-party group that they decided to bring in
13 themselves.

14 BY MR. HORLEY:

15 Q. And you -- you talked about this a little bit, but I'm
16 wondering if you could elaborate on some of the common issues
17 that you saw when you received these -- these false forms?

18 A. Sure. Let's say I got a registration form theoretically
19 for Sara Johnston. When I would put the information into the
20 database, the registration form would have maybe the same
21 first and last name but the date of birth would be transposed.
22 Maybe the birthday would be -- instead of October 2nd of '87,
23 it would be February 10th of '87 or the social would be
24 switched around, slight differences from the voter's actual
25 voter registration record.

1 That's just an example of some of the things that we
2 would see or we would get from the third-party groups maybe
3 four forms filled out for the same person but in different
4 handwriting, different signatures, different than the
5 information that was provided through the DMV as well.

6 Q. Okay. And do you have any understanding of why
7 third-party groups would submit these falsified applications?

8 MS. LANG: Objection, foundation.

9 THE COURT: Sustained.

10 THE WITNESS: Other than --

11 THE COURT: Excuse me, you don't have to answer when
12 I say "sustained." I'm sorry, I should have mentioned that.

13 Mr. Horley's going to ask a different question.

14 MR. HORLEY: Yes, your Honor.

15 BY MR. HORLEY:

16 Q. Could you walk us through how your office handles such
17 forms?

18 A. Well, legally we are required to enter a registration
19 form that we receive. So once we enter the data with the
20 information, HAVA checks were ran against the voter's record
21 to compare it to the MVD interface. The voter would either be
22 deemed as a real person with matching information or it
23 wouldn't.

24 By law we are required to follow up with the voter within
25 10 business days of filling out -- or putting in the data into

1 the registry -- into the system, excuse me. So we would send
2 a letter and majority of the time not get any response.

3 Q. And did you ever refer these incidents to the Attorney
4 General's office?

5 A. Yes.

6 Q. Okay. Could you describe a little bit that process?

7 A. Sure. I don't recall exactly how they got involved or
8 how I started communicating with them. I'm assuming it was
9 discussion between the previous recorder and the Attorney
10 General's office, but I would send him or the Attorney
11 General's office a list of an Excel spreadsheet with the voter
12 ID number, the information that we had on record for that
13 voter that was already confirmed real information and in
14 another column put the information that we were receiving on
15 the registration form, which we found to be false or fake
16 information.

17 Q. Okay. And after sharing that information, do you have
18 any knowledge of what happened next?

19 A. I do remember them tracking down one of the special
20 agents, a circulator who was filling out those registration
21 forms; but what happened with that person, I don't know.

22 Q. Okay.

23 MR. HORLEY: One moment, please.

24 No further questions for me, thank you.

25 THE COURT: Mr. Langhofer.

1 MR. LANGHOFER: Thank you.

2 DIRECT EXAMINATION

3 BY MR. LANGHOFER:

4 Q. Good afternoon, Ms. Johnston, Mr. Kerekes. I'm
5 wondering -- it sounds like when these forms that weren't --
6 the information wasn't authenticate on them, it sounds like
7 when those came in your office was able to identify a number
8 of them. If I understand your testimony, most of them didn't
9 register to vote.

10 Were any of them registered as fed-only no identification
11 voters?

12 A. Yes.

13 Q. Do you have any sense of how many?

14 A. I don't off the top of my head.

15 Q. Okay.

16 MR. LANGHOFER: Thank you, your Honor.

17 No other questions.

18 THE COURT: Any cross-examination?

19 MR. SHERMAN: Yes, your Honor.

20 CROSS-EXAMINATION

21 BY MR. SHERMAN:

22 Q. Good afternoon, Ms. Johnston. My name is John Sherman.
23 I represent Poder Latinx and Chicanos Por La Causa in this
24 action. I just a few questions for you.

25 Have you met with any plaintiffs' counsel outside of your

1 deposition in this case.

2 A. No.

3 Q. And as an employee at a County Recorder's office, your
4 office must comply with Arizona election laws, correct?

5 A. Correct.

6 Q. And you're familiar with Yuma County Recorder's office's
7 voter registration policies and procedures?

8 A. Correct.

9 Q. Are you familiar with the Challenged Laws in this case,
10 HB2492 and 2243?

11 A. A little bit, yes.

12 Q. Have you participated in internal discussions about these
13 laws?

14 A. Minimal, but yes.

15 Q. Are you familiar with the office's thinking on when to
16 implement these laws absent an injunction?

17 A. Because I no longer work there I'm not quite sure, but
18 I'm assuming whenever they get proper guidance from the State.

19 Q. Are you familiar with the office's thinking on how to
20 implement these laws?

21 A. I'm not.

22 Q. If there's no guidance in the EPM on a particular
23 election statute, say, for instance, a law that's passed
24 between two EPM revisions in that two-year period, how does
25 the County Recorder's office go about enforcing that new law?

1 A. I'm not sure. I haven't been in that situation.

2 Q. Understood. What has your office been doing, as far as
3 you know before you left, to start the process, if anything,
4 on HB2492 and 2243?

5 A. I'm not sure. I no longer work there as a full-time
6 employee so I don't know what they're doing.

7 Q. Let me -- let me just clarify the question.

8 Before you left the office --

9 A. Okay.

10 Q. -- did the County Recorder's office take any steps to
11 enforce HB2492 and 2243?

12 A. Those laws were not in effect before I left -- or just
13 got into effect as I was leaving. So I'm not sure what their
14 strategy is to implement those laws.

15 Q. I apologize if you mentioned this before. When did you
16 leave the office?

17 A. Early January of 2023.

18 Q. Understood.

19 A. Right when the laws came into effect.

20 Q. Understood. How many different staff members in your
21 office would be responsible for applying and enforcing voter
22 registration statutes like HB2492 and 2243?

23 A. All of them.

24 Q. How many -- how many staff members are there?

25 A. I believe there's four in voter registration currently

1 and four -- or three or four in elections.

2 Q. Any supervisors who oversee their decision making?

3 A. Recorder Colwell.

4 Q. Okay. For the DPOC notice letters that your office sends
5 out, are they in any -- what languages are they available in?

6 A. English and maybe Spanish or we offer them in Spanish if
7 needed.

8 Q. Any other languages beyond that?

9 A. No.

10 Q. Okay. I just want to ask you a few questions regarding
11 the SAVE database. Are you familiar with SAVE?

12 A. Yes.

13 Q. During your time in the office, were you responsible for
14 conducting SAVE verification checks?

15 A. Yes.

16 Q. All right. So if you sent out a notice letter asking a
17 voter registration applicant for DPOC and the person responds
18 with an alien registration number or a naturalization
19 certificate number, what did your office do with that number?

20 A. We would enter it into the SAVE program and wait for
21 verification, which was pretty immediate.

22 Q. If SAVE returns a match to a record of naturalized or
23 derived citizenship, that person's registered as a full-ballot
24 voter, correct?

25 A. Correct.

1 Q. And that constitutes conclusive information that they're
2 a United States citizen, correct?

3 A. Correct.

4 Q. But if that initial verification or initial search turns
5 up a status other than confirmed naturalized or derived
6 citizenship, that information is not conclusive as to their
7 citizenship status; is that right?

8 A. Can you repeat that again, I'm sorry.

9 Q. Yeah, let me rephrase this a different way.

10 So if you get a status, you put in their A-number or
11 their naturalization certificate number and it doesn't turn up
12 information that they're a naturalized or derived citizen, it
13 shows that they're a legal permanent resident, is that the --
14 is that the end of the road for that voter registration
15 applicant or does your office take other steps?

16 A. We would send them out a notice letting them know that
17 they are not eligible to be a registered voter due to lack of
18 citizenship and they still would have another opportunity, of
19 course, to bring in some form of proof of citizenship.

20 Q. Understood. So you can't use SAVE -- the SAVE results to
21 confirm a lack of US citizenship; is that correct?

22 A. Sure, yes.

23 Q. Does your office take any other steps beyond sending out
24 that additional notice letter to try to verify that person's
25 citizenship after that failed initial verification?

1 A. I'm not aware of any other way to obtain citizenship
2 other than the voter providing it or using the resources that
3 we had.

4 Q. And does your office follow the same procedure, sending
5 out the notice letter if there's no match whatsoever in the
6 SAVE system?

7 A. Correct.

8 Q. Is your office familiar at all with USCIS's additional
9 verification procedures?

10 A. I was not aware of it, and I'm not sure if they are.

11 Q. Okay. Are there any other sources of information that
12 your office consulted beyond MVD or SAVE that your offices
13 used to confirm US citizenship?

14 A. No.

15 Q. Are there any sources of information that your office
16 knows of and uses to confirm a lack of US citizenship?

17 A. No.

18 Q. If a registered voter is removed from the rolls based
19 upon an erroneous determination that they are not a US
20 citizen, what is your understanding as to whether they can be
21 added back to the rolls if the registration deadline has
22 already passed?

23 A. Well, I've never had that happen to me where somebody was
24 put into the system and -- and then -- well, not that I can
25 recall, at least, that they were put into the system with

1 verified citizenship and then later down the road found that
2 they weren't a citizen and taken off the voter rolls.

3 I would assume that if a voter brought in proper
4 documentation to prove their citizenship, they would be able
5 to get added back into the system and just like any other
6 database probably could override the -- the dates that they
7 were previously in there as a registered voter.

8 Q. Is there any established policy or practice on this in
9 the office? For instance, if there were an erroneous
10 determination that someone had been convicted of a felony and
11 that error came to light only after the registration deadline
12 had passed, is there any policy?

13 A. No, not that I'm aware of.

14 Q. Have you testified previously in your deposition that
15 HB2243 makes the personnel in the Yuma County Recorder's
16 office constant investigators unnecessarily?

17 A. I don't remember, but I can imagine that if we were
18 having to constantly follow up on something like that,
19 yeah.

20 Q. I could ask just so the record's clear. I'll ask it
21 directly to you. Do you believe that HB2243 makes the
22 personnel in your office constant investigators unnecessarily?

23 A. Yes.

24 MR. SHERMAN: No further questions for me, thank
25 you. My colleagues may have some.

1 CROSS-EXAMINATION

2 BY MS. LANG:

3 Q. Just very briefly, Ms. Johnston. My name is Danielle
4 Lang. I represent the LUCHA plaintiffs in this matter.

5 You were asked some questions about the 2022 cycle and
6 your identification of some potentially false and fraudulent
7 voter registration forms, and so I just want to follow up on
8 that.

9 Mr. Langhofer asked you whether or not a few of those may
10 have ended up on the rolls as federal-only no ID; is that
11 right?

12 A. Correct.

13 Q. In order for those individuals to actually vote, they
14 would have to provide identification to the Recorder's office,
15 correct?

16 A. Correct.

17 Q. Okay. And so, to your knowledge, no one voted based on
18 these potentially false or fraudulent forms, correct?

19 A. Not without bringing proof of identification.

20 Q. And at that point you would be satisfied that that was
21 not a false application but, in fact, you know, a verified
22 application, correct?

23 A. Correct. And as a safeguard, I would probably require
24 them to fill out another registration form just to have an
25 accurate clipping of their signature.

1 MS. LANG: I don't have any other further questions
2 for this witness, and the plaintiffs do not have any further
3 questions for this witness. Thank you.

4 THE COURT: Any questions on redirect?

5 REDIRECT EXAMINATION

6 BY MR. LANGHOFER:

7 Q. Good afternoon, Ms. Johnston. On this fed-only no ID
8 category, the types of identification that they can show in
9 order to move into the fed ID category and start casting
10 ballots, doesn't that include things like a utility bill?

11 A. No.

12 Q. What kind of ID does it have to be?

13 A. A state-issued ID or a passport, birth certificate.

14 Q. Thank you.

15 THE COURT: Is this witness' testimony complete?

16 MR. HORLEY: Yes, your Honor.

17 THE COURT: Okay. Ms. Johnston, thank you very much
18 for participating this afternoon, and we're going to leave the
19 meeting.

20 THE WITNESS: Thank you.

21 THE COURT: Do the defendants have another witness
22 or are we done for the day?

23 MR. WHITAKER: We're done for the day, Your Honor.

24 THE COURT: Okay, then -- Mr. Dodge.

25 MR. DODGE: I wanted to make the offer, Your Honor,

1 but if you'd like to wait until tomorrow, I think that's fine.

2 THE COURT: Court is in recess.

3 *(Whereupon the proceedings adjourned at 4:45 p.m.)*

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REPORTER'S CERTIFICATION

I, TERI VERES, do hereby certify that I am duly appointed and qualified to act as Official Court Reporter for the United States District Court for the District of Arizona.

I FURTHER CERTIFY that the foregoing pages constitute a full, true, and accurate transcript of all of that portion of the proceedings contained herein, had in the above-entitled cause on the date specified therein, and that said transcript was prepared under my direction and control.

DATED at Phoenix, Arizona, this 16th of November, 2023.

s/Teri Veres
TERI VERES, RMR, CRR